IN THE

Supreme Court of the United States

OCTOBER TERM, 1921. No. 101

Pine Hill Coal Company, Inc., Appellant

vs.

The United States

APPEAL FROM THE COURT OF CLAIMS

BRIEF FOR APPELLANT

STATEMENT OF THE CASE.

This is an action under Section 25 of the Lever Act, by a producer of coal which sold its coal during 1917 and 1918 at the prices prescribed by the President, to recover from the United States an amount sufficient to be just compensation as therein defined, that is to say, an amount sufficient to recoup to the producer,

> "the cost of production, including the expense of operation, maintenance, depreciation and depletion," and in addition "a just and reasonable profit."

It is not a suit based on a taking of Claimant's property by the Government, but for the fulfilment of a contractual guaranty by the United States, held out as a stimulus to the production of commodities essential to the efficient prosecution of the late war.

The petition avers that the Claimant is a corporation engaged in the business of mining anthracite coal, that under authority of the Lever Act prices of anthracite coal were fixed by the President, that the Claimant sold its coal at the prices fixed, that the prices fixed were unreasonably low, that as a result of the said observance of prices, as required by the Government during the 17 months in which they were in effect, the Claimant not only failed to make any profit whatever upon its mining operations, but actually suffered a loss. Its receipts from mining operations were less than the cost of production of the coal, although its mine was efficiently operated.

The Government demurred to the petition, and the Court of Claims sustained the demurrer and entered judgment against the Claimant. From this judgment the present appeal is taken.

The sole question before this Court is whether the Claimant has a cause of action against the United States.

When a coal operator has sold his coal at the price fixed by the President under the Lever Act,

and his receipts from sales have not been sufficient to meet the cost of production, under economical and efficient management, does the Lever Act give him any right of recovery from the United States?

Our position is that a proper construction of paragraph 4 of Section 25 of the Lever Act (40 Stats. at Large 276), approved August 10, 1917, gives this precise right to the Claimant.

The Government differs from us in the construction of the Act in question, and takes the position that the Claimant has no cause of action.

ARGUMENT.

Scope and Purpose of the Lever Act

Before taking up the analysis of the section of the Act upon which the claimant's right rests, we wish to call the attention of the Court to certain other important features of the Act which throw material light upon the proper construction to be given this section.

The Lever Act was a purely war measure Its purpose is concisely stated in its title:

> "An Act to provide further for the national security and defence by **encouraging the production,** conserving the supply, and controlling the distribution of food products and fuel."

In the summer of 1917, when this Act was passed, Congress recognized, from the experience of our Allies, that a prime essential to win the war was an abundant food and fuel supply, efficiently distributed, and as applied to producers of fuel, such as this Claimant, **the purpose of the Act was to stimulate maximum production.**

The conservation of supply referred to was only a supply already mined, which could presently be used as fuel, not a supply underground.

Section 1 of the Act further explains its scope and purpose.

> "That by reason of the existence of a state of war, it is essential to the national security and defense, for the successful prosecution of the war, and for the support of the Army and Navy to **assure an adequate supply** and equitable distribution, and to facilitate the movement, of foods, feeds, fuel including fuel oil and natural gas, and fertilizer and fertilizer ingredients, tools, utensils, implements, machinery and equipment required for the actual production of foods, feeds and fuel, hereafter in this Act called necessaries; to prevent, locally or generally, scarcity, monopolization, hoarding, injurious speculation, manipulations and private control, affecting such supply, distribution and movement; and to establish and maintain governmental control of such necessaries during the war. For such purposes the instru-

> mentalities, means, methods, powers, authorities, duties, obligations and prohibitions hereafter set forth are created, established, conferred and prescribed. The President is authorized to make such regulations and to issue such orders as are essential effectively to carry out the provision of this Act."

It requires no argument to demonstrate that, as applied to a producer of coal, the purpose of the Act was "to assure an adequate supply."

The only way in which a coal operator could hoard his product would be to leave it unmined. The provisions relative to distribution could apply only after the mining company got the coal above ground.

Obviously the easiest way to stimulate production would be to permit or enable the producer to get high prices for the coal mined. But not only would these high prices act as a deterrent on the manufacturer who expected to use the coal in the production of essential materials of war, but they would also antagonize the public against the government which permitted the existence of such prices, and the discontent thus engendered would severely injure the morale of the nation.

Congress was thus face to face with a serious problem concerning fuel regulation, and that problem must be understood and appreciated before

the solution provided in the Lever Act can be properly construed. If prices were fixed too high, the householder and manufacturer would have been justly aroused, and the public would have had to bear an unnecessary increase in the then rapidly mounting cost of the war. If prices were fixed too low, there was the probability either that the high cost operators would be forced to close their coal mines, thus endangering the supply of coal for war purposes, or else that they might apply to the Courts to enjoin the low prices as confiscatory, and before the matter could have been finally settled, the war would have been over and the whole purpose of regulation unaccomplished.

An additional difficulty in the fixing of fair prices was the fact that the cost of mining necessarily varied not only as between different regions, but as between different operators in the same locality, and what might be a fair price for one would not be for another.

The best solution of this problem obviously was for the Government to fix the price of coal at an average figure low enough to stimulate its use in manufacture, thus securing for all an adequate supply at a fixed reasonable price, keeping contented the householder who used it as fuel, and at the same time to guaranty to any particular producer of coal who was required to sell his

product at the fixed price, that if the latter were not sufficient to cover his actual cost of production plus a fair profit, the United States would make up the difference.

This solution would protect the public from exorbitant prices, insure an adequate supply by guaranteeing a fair price to every producer, and render it impossible for the Government's regulative program to be interfered with by injunctions or applications for injunctions.

It is, we submit, exactly the solution which Congress intended to adopt and did in fact adopt in Sec. 25 of the Lever Act.

The Provisions of the Statute

We have annexed the text of the Lever Act in full to this brief as "Appendix B" (p. 83).

The first 24 sections deal generally with food and fuel, but the 25th section (p. 97) is directed particularly to coal and in itself provides a complete system for the war time regulation of the coal industry.

This section regulates two alternative situations —(1) relations between producer and consumer of coal, to which the United States is not a party, and (2) relations between the United States and producers of coal which the United States needs to acquire.

The various paragraphs of this section are closely interrelated, and each has a material bearing on the meaning and application of each other.

Paragraph 1 applies only as between producer and consumer. It authorizes the President to

> "Fix the price of coal and coke, wherever and whenever sold, either by producer or dealer."

It was under the above authority that the President, through Dr. Garfield, actually acted in fixing the coal prices to recover the deficiency in which this action is brought.

Paragraphs 2 and 3 apply only as between the United States and the producer of coal. Paragraph 2 authorizes the President to take over and operate any coal mines, and paragraph 3 requires that just compensation shall be paid to any operator whose mines have been taken over. Both of these paragraphs are regulative and not remedial. As far as we know, the authority given in these paragraphs was never exercised. At least it was not exercised in relation to this claimant.

Then comes paragraph 4, which is the one upon the construction of which the present case must turn. This paragraph is the remedial paragraph and applies to both the alternative situations regulated in paragraph 1 and paragraphs 2 and 3 respectively.

The material words of paragraph 4 are as follows:

> "If the prices so fixed, or if, in the case of the taking over * * * of the mines * * *

> the compensation therefor as determined by the provisions of this Act be not satisfactory to the person * * * entitled to the same, such person shall be paid 75% of the amount so determined" and may sue the United States for the balance.[1]

It will again be noted that this paragraph contemplates and provides a judicial remedy for two entirely different situations, the one where *prices are fixed* on sales between individuals, to which the United States is not a party, and the other where *compensation is determined* for the taking over of mines or business by the United States. In the former case no part of the fixed price of the coal would be payable by the United States; in the latter case all the compensation would be payable by the United States.

As to compensation for taking over the mines, this paragraph is quite clear. But as to the rights of the seller of coal when prices have been fixed it is not only ambiguous, but we submit it is mean-

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[1] The text in full of this paragraph is as follows:

That if the prices so fixed, or if, in the case of the taking over or requisitioning of the mines or business of any such producer or dealer the compensation therefor as determined by the provisions of this Act be not satisfactory to the person or persons entitled to receive the same, such person shall be paid seventy-five per centum of the amount so determined, and shall be entitled to sue the United States to recover such further sum as, added to said seventy-five per centum, will make up such amount as will be just compensation in the manner provided by section twenty-four, paragraph twenty, and section one hundred and forty-five of the Judicial Code.

ingless unless we add some words which are not now there.

Analyzing the paragraph grammatically, we find that it consists of a single sentence, made up of two alternative conditional clauses, followed by the principal or independent clause, as follows:

If the prices so fixed (be not satisfactory to the person or persons entitled to receive the same),

or

if, in the case of the taking over or requisitioning of the mines or business of any such producer or dealer the compensation therefor as determined by the provisions of this Act be not satisfactory to the person or persons entitled to receive the same,

such person shall be paid 75% of the amount so determined and shall be entitled to sue the United States to recover, etc.

The first conditional clause refers to the situation regulated in paragraph 1 (that between producer and consumer); the second conditional clause refers to the situation regulated in para-

graphs 2 and 3 (that between the United States and the producer); and the principal or independent clause attempts to give a remedy applicable to either of the alternative situations described in the two conditional clauses.

But the phrase "75% of the amount so determined" in the principal clause refers only to the second conditional clause, the "amount so determined" being the "compensation therefor as determined by the provisions of this Act." This phrase "75% of the amount so determined", of the principal clause as it stands makes no reference to prices fixed, and there is nothing in the principal clause specifying what is to occur when the prices fixed are unsatisfactory to the person entitled to receive them.

In other words, although the second conditional clause and the principal clause taken together are perfectly intelligible and the meaning perfectly clear, yet when the principal clause and the first conditional clause are taken together, they are, as admitted in the brief of the Government (p. 14) "awkward and obscure," and "some astuteness in construction" is necessary.

A careful study of the text will show that there are four possible constructions which could be given to this paragraph, and, after indicating what they are, we shall discuss these constructions in order.

They are the following:

A. The first five words, namely "That if the prices so fixed or" could be disregarded and ignored, as if the Act had read thus:

> "* * * * If, in the case of the taking over or requisitioning of the mines or business of any such producer or dealer the compensation therefor as determined by the provisions of this Act be not satisfactory to the person or persons entitled to receive the same, such person shall be paid seventy-five per centum of the amount so determined, and shall be entitled to sue the United States to recover such further sum as, added to said seventy-five per centum, will make up such amount as will be just compensation" etc.

This by eliminating entirely the first conditional clause, would make the meaning clear and confine the application of this remedial paragraph solely to cases where the Government took over mines and business. The owner would be paid by the Government 75% of the compensation as determined under the Act and would sue for the balance. It would give no rights whatever to the operator who sold coal to other individuals at the prices fixed.

B. The word "so" could be eliminated and the words "as hereafter provided in paragraph six

hereof" inserted in the first conditional clause so that the paragraph would read:

> "That if the prices * * * fixed *as hereafter provided in paragraph six hereof*, or if, in the case of the taking over or requisitioning of the mines or business of any such producer or dealer the compensation therefor as determined by the provisions of this Act be not satisfactory to the person or persons entitled to receive the same, such person shall be paid seventy-five per centum of the amount so determined, and shall be entitled to sue the United States to recover such further sum as, added to said seventy-five per centum, will make up such amount as will be just compensation" etc.

This construction would confine the remedy to cases where prices were fixed on coal requisitioned by the United States, and it would have no application and give no rights on sales of coal made between producer and consumer.

C. It could be construed as if the words "of the prices so fixed or" had been inserted in the principal clause and as if the Act had read thus:

> "That if the prices so fixed, or if, in the case of the taking over or requisitioning of the mines or business of any such producer or dealer the compensation therefor as determined by the provisions of this Act be not satisfactory to the person or persons entitled

> to receive the same, such person shall be paid seventy-five per centum *of the prices so fixed or* of the amount so determined, and shall be entitled to sue the United States to recover such further sum, as, added to said seventy-five per centum, will make up such amount as will be just compensation," etc.

This would mean that when prices unsatisfactory to the seller were fixed for sales from producer to consumer, the producer would receive from his purchaser only 75% of the price fixed, and would recover from the United States the balance of a reasonable price; similarly that when the United States took over the mines, the owner would receive from the United States 75% of the compensation determined by the President and sue the United States for the balance.

D. The Court might construe the paragraph as meaning that the 75% clause applied only to takings by the United States and not to sales between individuals at the fixed prices. That is to say as though the Act read thus with the italicized words inserted:

> "That if the prices so fixed, or if, in the case of the taking over or requisitioning of the mines or business of any such producer or dealer the compensation therefor as determined by the provisions of this Act be not satisfactory to the person or persons

> entitled to receive the same, such person shall be paid *the prices so fixed or* seventy-five per centum of the amount so determined, and shall be entitled to sue the United States to recover such further sum, as added to *the said prices or* said seventy-five per centum will make up such amount as will be just compensation," etc.

This construction would mean that when the prices fixed for sales from one individual to another were unsatisfactory to the seller, he would receive from his purchaser the whole of the price fixed' and could sue the United States for the difference between that and a fair price, and that when the United States took over a mine and determined a compensation therefor unsatisfactory to the owner he would receive 75% of the amount determined and sue the United States for the difference between that and a fair price.

Any one of the four constructions suggested above necessitate the elimination or the insertion of certain words to make the meaning clear. There is no construction which can be adopted without making *some* change in the text.

Construction A

The possibility of adopting this construction (involving as it does, disregarding completely the first conditional clause in the sentence) can, we believe, be dismissed without much discussion.

Certainly the opening words of the paragraph were not intended to be meaningless.

And particularly is this true when these words are "If the prices *so* fixed," and the preceding paragraph 1 authorizes the fixing of prices.

Clearly, therefore, these words must have some meaning, and we must turn to some other construction which will correctly interpret that meaning.

Construction B

This construction would be that the "prices so fixed" means the "prices hereinafter fixed" and refers exclusively to prices fixed when the United States takes over the coal or the mines.

This is the construction which was adopted by the Court of Claims and which is argued by the Government on the present appeal.

In considering this possible construction it is again necessary to keep clearly in mind the various regulative and remedial paragraphs of this section, and the relative position in the Act of these respective paragraphs.

There are three regulative paragraphs of Section 25, as follows:

1. Paragraph 1, where authority is given to **fix prices** between producer and consumer.

2. Paragraphs 2 and 3 where authority is given for the United States to take over the mines and fix compensation to be paid the owner by the United States.

3. Paragraphs 6 and 7 where authority is given to require all producers to sell their product only to the United States and at a price to be fixed and paid by the United States.

Each of these regulative paragraphs is in turn followed by a remedial paragraph, giving a remedy to the producer in case prices or compensation should be fixed too low, and the language of each remedial paragraph refers back in unmistakable terms to the regulative paragraph to which it is to apply.

Thus paragraph 8 follows and refers to the regulative paragraphs 6 and 7, and paragraph 4 follows and refers in the alternative to paragraph 1, and paragraphs 2 and 3.

The text of these various paragraphs shows beyond any question that the remedial paragraphs 4 and 8 were each intended to refer exclusively to several regulative paragraphs preceding them.

For example, paragraph 6 authorizes the President to require producers of coal to "sell their products" only to the United States. Then comes the remedial paragraph 8 which provides for fair prices to be paid "for *such* products *so* purchased," and gives the right to sue the United States if the prices "of any *such* product" be unsatisfactory.

Thus by paragraphs 6 and 8 there is provided a complete and exclusive method of regulation in the event that the United States should take over all the coal produced.

So too is the remedial paragraph 4 by its second conditional clause tied up with the regulative paragraphs 2 and 3. Paragraphs 2 and 3 authorize the President to "requisition and take over" the mines and to fix a "just compensation." Then the following remedial paragraph 4 provides a right of suit against the United States if the "compensation" for the "taking over or requisitioning" of the mines be unsatisfactory.

Similarly the remedial paragraph 4, by its first conditional clause is tied up with paragraph 1. Paragraph 1 authorizes the President to "fix the price" of coal as between producer and consumer, and this is in turn followed by paragraph 4 providing a remedy "if the prices *so* fixed" be unsatisfactory.

It is clear then that each of the remedial paragraphs 4 and 8 not only by reason of their position in the text, but by the internal references, refer unmistakably and exclusively to the *preceding* regulative paragraphs.

The suggested Construction B of section 4, namely that the words "prices so fixed" refer only to prices fixed when the United States takes the coal, runs directly up against the fact that the situation where the United States takes the coal is completely regulated in paragraphs, 6, 7 and 8 and a complete remedy is there given to the producer whose prices are fixed too low. The

whole subject being completely covered in these three paragraphs, why should any reference to it be made in a preceding paragraph?

It seems clear that the words "prices so fixed" in paragraph 4 for this reason cannot be said to refer to the fixing of prices in paragraph 6 where the United States takes the coal.

The Court of Claims in its opinion (R. p. 46) concedes that this construction can only be adopted if paragraph 4 is transposed so as to follow paragraph 6. But why should this be done, when paragraph 8 which actually does follow paragraph 6 specifically refers to the regulative provisions of paragraph 6 and provides a complete remedy for any abuse of the powers there conferred?

If there were no other price fixing paragraphs in Section 25 except paragraph 6, then it might be necessary to make the transposition. But, as we have shown, there are price fixing provisions in paragraph 1 which *precede* paragraph 4. In such case, not only is it unnecessary to make the transposition, but to do so would violate the evident intention of the Act.

On page 13 of the Government's brief in this case it is argued that under a broad construction of paragraph 2 the President would be authorized to compel producers to sell their coal to the United States and that the words in paragraph

4 "the prices so fixed" would then refer to the price to be paid for such coal.

But this argument also overlooks the fact that paragraph 6 provides expressly for the very thing which the Government says paragraph 2 could be stretched to mean. There can therefore be no excuse for altering by implication the clear express powers of paragraph 2.

This being true, we revert to the proposition previously stated, that there is no price fixing authorized for coal taken by the United States to which the words "if the prices so fixed" of paragraph 4 could possibly apply.

These words of paragraph 4 must then refer to the price fixing as between producer and consumer authorized in paragraph 1, and must have been intended to give some remedy to the producer when such prices were fixed too low. The question is: *what* rights are so given?

Construction C

Under this construction the producer who was dissatisfied with the Government price would collect only 75% of that price from his purchaser and sue the United States for the difference between that 75% and a fair price.

By the insertion of the words as suggested on p. 13, *supra*, it would be possible to adopt this

construction without violating the language of the other paragraphs of the section.

But could any one for a moment entertain the thought that Congress intended any such result? As conceded in the brief of the Government (p. 15), such construction would be "an obvious absurdity."

Construction D

By process of elimination, it is seen that the only possible construction which can be applied to this paragraph is that when the prices fixed between producer and consumer are not satisfactory to the producer, he may collect from his purchaser the whole of the price fixed, and sue the United States for the difference between that and a fair price.

This is the construction of the paragraph which we believe to be the correct one.

It gives effect to all the words of the paragraph, it is in perfect harmony with the other paragraphs of the same section, and it is the only construction which could properly effectuate the evident intention of Congress in enacting this legislation.

There is less difficulty in the text of the Act in the way of adopting this construction than any other of those suggested.

When applied to price fixing under paragraph 1 of this section, the provisions relating to para-

graphs 2 and 3 concerning the compensation determined on takings by the United States must be omitted so that paragraph 4 would read:

> "That if the prices so fixed * * * be not satisfactory to the person or persons entitled to receive the same, such person * * * shall be entitled to sue the United States to recover such further sum as * * * will make up such amount as will be just compensation," etc.

Or, referring to the grammatical analysis on p. 10 hereof, it is only necessary to continue the alternative nature of the sentence throughout the principal clause by repeating "the prices so fixed" in that clause, making the whole sentence read as follows:—

> "That if the prices so fixed, or if, in the case of the taking over or requisitioning of the mines or business of any such producer or dealer the compensation therefor as determined by the provisions of this Act, be not satisfactory to the person or persons entitled to receive the same, such person shall be paid *the prices so fixed or* 75% of the amount so determined, and shall be entitled to sue the United States to recover such further sum, as added to *the said prices or* said 75% will make up such amount as will be just compensation," etc.

In order to support the construction urged by us it is entirely unnecessary to add the long clause suggested by the Government on page 16 of their brief.

Whatever doubt as to the construction of this paragraph may remain after a mere reading of the text of the Act, is removed by a study of the history of the passage of the Lever Act, as shown by the record of the proceeding in Congress.

When its history is so traced there can be no possible doubt as to what remedy Congress actually intended to provide, and it did in fact provide for a situation like that presented in the case at bar.

History of the Lever Act

The Lever Act as it originally passed the House on June 23, 1917 (Con. Rec. Vol. 55, p. 4190), covered substantially what is now included in Sections 1-24 (inc.) of the Act. It dealt with food and fuel together and precisely the same regulations were applicable to each commodity.

The Senate on July 21, 1917, passed the bill with some seventy amendments (Con. Rec. Vol. 55, p. 5367). The House on July 25, 1917, disagreed to the Senate's amendments, and the bill was then referred to a conference committee consisting of members from each house (Con. Rec. Vol. 55, pp. 5367 and 5473). The conference

report was submitted to each house, on Aug. 2 (Con. Rec. pp. 5709 and 5733) and adopted by each. In the form recommended by the conference committee (Con. Rec. Vol. 55, p. 5775) the bill finally passed the House on August 3 (Con. Rec. Vol. 55, p. 5767) the Senate on August 8 (Con. Rec. Vol. 55, p. 5927) and was approved by the President August 10, 1917.

Section 25 of the present Act first appeared as Senate amendment No. 69 to the bill, introduced by Senator Pomerene on July 20 (Con. Rec. Vol. 55, p. 5310) and adopted by the Senate July 21 (Con. Rec. Vol. 55, p. 5362), on the day of and just prior to the passage by the Senate of the amended bill. The Pomerene amendment was revised by the Conference Committee, and was then adopted by both houses and now appears as Section 25 of the Act exactly in the form recommended by the Conference Committee.

The Conference report was adopted without debate and the whole bears evidence of haste, as the legislation was immediately necessary and there was no time for polishing.

The seventy-three amendments which had been inserted by the Senate were considered and passed on by the Committee between July 25th and August 2nd.

For convenience of reference there is annexed hereto as "Appendix A" (p. 49) an exact copy

of the bill as ordered to be printed by the House on July 23, 1917, upon its return thereto by the Senate. This appendix shows the text of the Act as it passed the House on June 23, as well as the seventy-three amendments thereto adopted by the Senate. In the form shown in "Appendix A" the bill went to the Conference Committee.

As passed by the Senate on July 20, 1917 (Cong. Rec. p. 5361-2) the first four paragraphs of what is now Sec. 25 of the Act (omitting one paragraph relative to wage fixing which was subsequently eliminated), read as follows (p. 75 hereof):—

> "That it is necessary and proper, in order to execute the powers of Congress to raise and support armies, provide and maintain the navy, and properly and efficiently provide for the common defence that the President of the United States shall be, and he is hereby, authorized and empowered, whenever, and wherever in his judgment necessary for the efficient prosecution of the war, to fix the price of coal and coke, wherever and whenever sold, either by producer or dealer, to establish rules for the regulation of and to regulate the method of sale, transportation, distribution, apportionment, or storage thereof among merchants and consumers, domestic or foreign; said authority and power may be exercised by him in each case through the agency of the Federal Trade Commission, during the war and for a period of one year thereafter, or for such part of said time as in his judgment may be necessary.

"That if, in the opinion of the President, any such producer or dealer fails or neglects to conform to such prices or regulations, or to conduct his business efficiently under the regulations and control of the President as aforesaid, or conducts it in a manner prejudicial to the public interest, then the President is hereby authorized and empowered in every such case to requisition and take over the plant, business, and all appurtenances thereof belonging to such producer or dealer as a going concern, and to operate or cause the same to be operated in such manner and through such agency as he may direct during the period of the war and one year thereafter, or for such part of said time as in his judgment may be necessary.

"That if the prices so fixed, or if, in the case of the taking over or requisitioning of the mines or business of any such producer or dealer, the compensation or damages fixed be not satisfactory to the person or persons entitled to the same, such person or persons shall be paid the amount prescribed by the President and shall be entitled to sue the United States to recover such other sum as, added to the amount so paid, will be just compensation in the manner provided by section twenty-four, paragraph twenty, and section one hundred and forty-five of the Judicial Code.

"That any producer or dealer whose plant, business, and appurtenances shall have been requisitioned or taken over by the President

shall be paid a fair and reasonable compensation for the use thereof or for damages incurred thereby during the period that the same may be requisitioned or taken over as aforesaid, which compensation and damages the President shall fix or cause to be fixed by the Federal Trade Commission or such other agent or agencies as he may designate."

In the final draft the order of the paragraphs was transposed and the fourth paragraph above quoted became paragraph three.

The foregoing provisions, as applied to a producer of coal, are perfectly clear.

The first two paragraphs deal with two separate situations, the one where the President fixes the price at which producers or dealers were required to sell to the public, and the second where the President takes over and operates a mine.

The third paragraph provides a remedy to the dissatisfied producer in each of the two cases covered by the first and second paragraphs.

> "**That if the prices so fixed** or if, in the case of the taking over or requisitioning of the mines or business of any such producer or dealer, the compensation or damages fixed **be not satisfactory to the person or persons entitled to the same, such person or persons shall be paid the amount prescribed by the President and shall be entitled to sue the United States to recover such other sum as, added to the amount so paid, will be just compensation**" etc.

The words "amount prescribed by the President," were carefully chosen to include both the "prices so fixed" and the "compensation or damages fixed"; in either case the producer was to receive either the price or the compensation and to have his action against the United States for the balance.

There can be no possible doubt but that the Senate in adopting this provision contemplated precisely the situation which has arisen in the present case, and intended to give precisely the remedy which is here sought to be enforced.

In the passage through Congress the first two paragraphs above quoted were not materially changed, there being merely certain verbal alterations and the omission of the preamble.

The paragraph giving the remedy to the producer was, however, changed by the Conference Committee into what is now paragraph 4 of Section 25 of the Act (see p. 40 for text).

The reason for this alteration is apparent from a consideration of the other amendments to the bill which had been proposed by the Senate and were agreed to in the Conference Committee.

The Lever Act contains a number of clauses authorizing the fixing of prices by the President or other Governmental authority. But it will be noted that, with one exception, in every case where price fixing is authorized, the purchaser is the United States. This single exception is the

authorization to fix price of coal and coke "whenever and wherever sold" in paragraph 1 of Section 25, which is the price fixing upon which this action is based.

The Act as passed contains six price fixing sections, as follows:—

(1) Sec. 10. authorizes the President to requisition foods, feeds and fuel for the Army and Navy, and directs him to "ascertain and pay a just compensation therefor" (p. 88 hereof).

(2) Sec. 12. authorizes the President to requisition for the use of the Government any factory, mine, plant, etc., and directs him to "make just compensation for the use" (p. 89 hereof).

(3) Sec. 16. authorizes the President to commandeer such distilled spirits as are needed to supply the Government requirements, and directs him to "pay a just compensation for the distilled spirits so commandeered" (p. 95 hereof).

(4) Sec. 25. in paragraph 1 authorizes the President to fix the price of coal and coke "wherever and whenever sold" (p. 97 hereof).

(5) Sec. 25. in paragraph 2 authorizes the President to requisition the plant of any producer who fails to conform to the regulations or conducts his business inefficiently, and in paragraph 3, directs that such producer shall be paid "a just compensation for the use" of his plant (p. 97 hereof).

(6) Sec. 25 in paragraph 6 authorizes the President to require all producers of coal to sell their products only to the United States and in paragraph 8 directs that the prices to be paid for such products shall be based upon cost of production plus a fair profit (p. 98 hereof).

Of these price fixing clauses all but the fourth deal with cases where the United States is to take and pay for the commodity or plant.

The bill as it originally passed the House contained only the first three of these price fixing authorizations (pp. 61, 63 and 72 hereof) substantially as they now appear in Secs. 10, 12, 16 of the final act. But each of these clauses was immediately followed by a provision that if the price or compensation should not be satisfactory to the person entitled thereto, such person should be paid the whole of the amount prescribed by the President and should be entitled to sue the United States to recover the difference between that and a fair price.

In the Senate all three of these provisions were amended to provide that the person whose property was requisitioned or commandeered should, if dissatisfied with the compensation offered, be paid **but 75% thereof**, and sue the United States for the difference.

The day before the bill passed the Senate the last three price fixing authorizations were intro-

duced by Senator Pomerene's amendment (pp. 75, 76 and 77 hereof) substantially as they now appear in paragraphs 1, 2 and 6 of Section 25. The first two of these were followed by paragraph 4, above quoted, and the last was followed by paragraph 8 which only allowed 75% if the owner was dissatisfied with the Administrative price fixed.

It will thus be observed that when the amended bill went to the Conference Committee the 75% provision had been introduced by the Senate in Sections 10, 12 and 16, as well as in paragraph 8 of the Pomerene amendment (then Section 22) but not yet in the paragraph giving the remedy here invoked.

In the Conference Committee the House members agreed to the Senate's amendments inserting the 75% clause in the provisions originally introduced in the House, and the Pomerene amendment was thereupon similarly changed by the insertion of a 75% clause in paragraph 4.

It is quite evident why paragraph 4 of the final act was changed in the Conference Committee from the original draft as offered by Senator Pomerene and as adopted by the Senate. Of the six price fixing provisions of the whole Act, four of them (each of the four dealing solely with takings by the United States) had then been amended by insertion of the 75% clause. The only price fixing provisions which did not at that time have

the 75% clause annexed were those which now appear in paragraphs 1 and 2 of Section 25, and as we have already shown, one of these (paragraph 2) deals with takings by the United States while the other (paragraph 1) deals with prices between producer and consumer.

In order to make uniform all the provisions regarding takings by the United States, what is now paragraph 4 was amended by inserting the 75% clause, however, making it entirely clear on its face that this clause was to be confined to takings by the Government authorized in paragraph 2.

That such, however, was the purpose of the Conference Committee is conclusively shown from the statement of the House Managers to the House (Con. Rec. Vol. 55, p. 5736), where in recommending the changes suggested in conference as to Senator Pomerene's amendment (now Sec. 25) they said:

> "The managers on the part of the House * * * submit the following written statement in explanation of the effect of the action agreed upon by the conference committee * * * as to each of the amendments of the Senate, namely:
>
> * * * * *
>
> "Amendment No. 69: This amendment inserts a new section 22, providing for comprehensive governmental control of the coal

and coke business, including the fixing and regulating of prices, the requisitioning and operating of plants and businesses, the governmental purchase and sale of coal and coke, and a detailed investigation of the coal and coke business. The House recedes and agrees with an amendment changing the section number to 25; limiting the operation of the section to the period of the war; extending the power of regulation by the President to include the method of production, in addition to the sale, shipment, distribution, apportionment, or storage, of coal and coke; eliminating recourse to the Board of Mediation and Conciliation by any person dissatisfied with wages fixed by the President; **reducing the amount to be paid to any person dissatisfied with the compensation fixed in the exercise of the requisitioning or purchasing power to 75 per cent. instead of the entire amount, with the right to sue the United States to recover such further sum as added to said 75 per cent. will constitute just compensation;** eliminating the provision that there shall be but one dealer between the producer and consumer in fixing maximum prices for dealers; **and making other changes of a minor or incidental nature."**

In the first sentence of the paragraph of this Statement relative to Senate Amendment No. 69, the House Managers refer briefly to the nature of the Senate Amendment, for the purpose of identification. Then in the second sentence they

enumerate specifically the change or amendment made by the Conference Committee to the Amendment and recommend that the House adopt it as thus revised.

As passed by the Senate and as it went to the conference Committee one of the absolutely clear provisions of this section of the act was that there should be just such a right as is here sought to be enforced. Then the Conference managers proceed to itemize the changes in the amendment which were agreed upon by the Conference Committee. One of these changes is the insertion of the 75% clause as applicable to cases arising under "the requisitioning or purchasing power" of the United States. **Not a word is said about any change as applied to rights of producers of coal where prices are fixed between them and consumers.**

The original Senate amendment No. 69 having given such producers the undoubted right to sue the United States if the prices fixed between them and consumers were unsatisfactory, if the Conference Committee intended to wipe out this right, would they not have so explained to the House? Yet there is no such statement in the report.

If it was intended to eliminate this right, why did not the Committee strike out the words "If the prices so fixed or," thus removing the alternative nature of the remedial paragraph 4, and clearly confining it to takings by the United States?

The Court of Claims seemed to be of the opinion (Record p. 47, 48) that this statement of the House Managers shows there was no intention on their part to give the producers of coal any right against the United States where prices were fixed as between producer and consumer.

To our mind the report demonstrates just the opposite conclusion.

On the face of the Statement by the House Managers it plainly appears that they were not attempting to explain to the House the nature of the various Senate Amendments to the House bill, but, to use their own words, they were submitting an **"explanation of the effect of the action agreed upon by the conference committee."**

The action so agreed upon by the Conference Committee as to this Senate Amendment No. 69 is thus described by the House Managers: The original Senate Amendment is to be amended:

(1) by "changing the section number to 25;"

(2) by "limiting the operation * * * to the period of the war."

(3) by "extending the * * * regulations * * * to include the method of production."

(4) by "eliminating recourse to the Board of Mediation and Control."

(5) by "reducing the amount paid to any per-

son dissatisfied with the compensation fixed in the exercise of the requisitioning or purchasing power to 75 per cent. * * *"

(6) by "eliminating the provision that there shall be but one dealer between the producer and consumer * * *"

(7) and by "making other changes of a minor or incidental nature."

The foregoing list consists entirely of changes made by the Conference Committee in Senate Amendment No. 69. These changes represent the amendment recommended by the Conference Committee to Senate Amendment No. 69, and the Statement of the House Managers so declares in clear terms.

In other words, the House Managers recommended that the Senate Amendment No. 69 be agreed to by the House, **with the seven changes specifically mentioned.**

That the House Managers in their Statement were itemizing and referring, not to the original Senate Amendment No. 69 itself, but only to the **changes** made by the Conference Committee in the Amendment, is demonstrated by a mere reading of the Statement.

A comparison of the provisions of this section as it appeared in Senate Amendment No. 69 (See p. 75 hereof), and as it was recommended for passage by the Conference Committee and

now appears in the Act as passed (p. 97 hereof) will show that every change made is mentioned in the Statement of the House Managers, and that no change was made other than those so referred to.

The Court of Claims erroneously assumed that the purpose of the Statement of the House Managers was to acquaint the members of the House with the changes wrought in the original House Bill by Senate Amendment No. 69. Not at all. The purpose of the Statement was to show the House the changes wrought by the Conference Committee to Senate Amendment No. 69.

Thus the omission in the Statement of any reference to the rights of a producer whose prices were fixed on sales to others than the United States, far from meaning that no rights were meant to be given, means that no change was intended to be made in the rights as originally provided.

The only change reported was concerning takings by the United States, in which case the 75% clause was to be inserted.

The clear inference is that the rights of the producer in other cases were to be left as they had been originally. This, admittedly, meant that he had a right to recover the price fixed from his purchaser and to sue the United States for the difference between that and a just price.

At the close of the above quoted statement by the House Managers it is stated that in addition to the six material changes specifically mentioned, the Committee has made "other changes of a minor or incidental nature" in this section.

This shows conclusively that the House Managers intended to call the attention of the House to all the changes made by the Committee in the section as it had been before both Houses and adopted by the Senate; all the important changes were specifically mentioned in the report and minor changes were referred to as above quoted.

It cannot be reasonably contended that the complete elimination of a right previously clearly and expressly given to a producer to sue for fair prices on sales other than to the United States would be merely a change of a "minor or incidental nature." The inevitable conclusion to be drawn from the omission to refer to any change in such rights, is that no such change was intended to be made.

The framers of the original bill foresaw the possibility that the prices might in some cases be too low, and put in the express provision authorizing suit against the United States to recover any deficiency. The Administrative price fixing was thus in every case made subject to review by the Court on the question of the fair-

ness or reasonableness of the price fixed and was coupled with a guaranty by the United States of an additional sum to make just compensation.

The additional 75% provision as applied to the five clauses in the Act which concern the taking of property by the United States is entirely proper and workable, in that while it protects the rights of the owner, it encourages a speedy and final administrative settlement, barring recourse to the Courts.

But as applied to prices fixed for sales from one individual to another, such a provision would be impossible, or at least is so impracticable that only the clearest possible language would justify the Court in so applying it.

In order that the change brought about by the insertion of the 75% provision in the paragraph here under discussion may be more easily grasped, we print in parallel columns the provisions as originally adopted by the Senate and the provision of the Act as finally passed.

As adopted by the Senate on July 21, 1917.
(See page 75 hereof)

That it is necessary and proper, in order to execute the powers of Congress to raise and support armies, provide and maintain the Navy, and properly and efficiently provide for the common defense, that the President of the United States shall be, and he is hereby authorized and empowered, whenever and wherever in his judgment necessary for the efficient prosecution of the war, to fix the price of coal and coke, wherever and whenever sold, either by producer or dealer, to establish rules for the regulation of and to regulate the method of *sale, transportation,* distribution, apportionment or storage

As Finally Passed.
(See page 97 hereof)

That the President of the United States shall be, and he is hereby authorized and empowered, whenever and wherever in his judgment necessary for the efficient prosecution of the war, to fix the price of coal and coke, wherever and whenever sold, either by producer or dealer, to establish rules for the regulation of and to regulate the method of *production, sale, shipment,* distribution, apportionment or storage

thereof among merchants and consumers, domestic or foreign; said authority and power may be exercised by him in each case through the agency of the Federal Trade Commission, during the war *and for a period of one year thereafter*, or for such part of said time as in his judgment may be necessary.

That if, in the opinion of the President, any such producer or dealer fails to neglect or conform to such prices or regulations, or to conduct his business efficiently under the regulations and control of the President as aforesaid, or conducts it in a manner prejudicial to the public interest, then the President is hereby authorized and empowered in every such case to requisition

thereof among dealers and consumers, domestic or foreign; said authority and power may be exercised by him in each case through the agency of the Federal Trade Commission, during the war

or for such part of said time as in his judgment may be necessary.

That if, in the opinion of the President, any such producer or dealer fails or neglect to conform to such prices or regulations, or to conduct his business efficiently under the regulations and control of the President as aforesaid, or conducts it in a manner prejudicial to the public interest, then the President is hereby authorized and empowered in every such case to requisition

and take over the plant, business, and all appurtenances thereof belonging to such producer or dealer as a going concern, and to operate or cause the same to be operated in such manner and through such agency as he may direct during the period of the war *and one year thereafter*, or for such part of said time as in his judgment may be necessary.

That if the prices so fixed or if, in the case of the taking over or requisitioning of the mines or business of any such producer or dealer, the compensation *or damages fixed* be not satisfactory to the person or persons entitled to the same, such person *or persons* shall be paid

and take over the plant, business, and all appurtenances thereof belonging to such producer or dealer as a going concern, and to operate or cause the same to be operated in such manner and through such agency as he may direct during the period of the war or for such part of said time as in his judgment may be necessary.

That if the prices so fixed or if, in the case of the taking over or requisitioning of the mines or business of any such producer or dealer, the compensation *therefor as determined by the provisions of this Act* be not satisfactory to the person or persons entitled to *receive* the same, such person shall be paid *seventy-five per cent-*

the amount prescribed by the President, and shall be entitled to sue the United States to recover such *other* sum as, added to *the amount so paid,*

will be just compensation in the manner provided by Section 24, paragraph 20, and Section 145 of the Judicial Code.

That any producer or dealer whose plant, business and appurtenances shall have been requisitioned or taken over by the President shall be paid a *fair and reasonable* compensation for the use thereof *or for damages incurred thereby* during the period that the same may be requisitioned or taken over as aforesaid, which compensation *and damages* the President shall fix or cause to be fixed by the Federal Trade Commission, *or such other agent or agencies as he may designate.*

um of the amount so determined and shall be entitled to sue the United States to recover such *further* sum, as added to *said seventy-five per centum, will make up such amount as* will be just compensation in the manner provided by Section 24, paragraph 20, and Section 145 of the Judicial Code.

That any producer or dealer whose plant, business and appurtenances shall have been requisitioned or taken over by the President shall be paid a *just* compensation for the use thereof

during the period that the same may be requisitioned or taken over as aforesaid, which compensation

the President shall fix or cause to be fixed by the Federal Trade Commission.

Appellant's Construction of the Statute is not only the Most Logical Construction Suggested, but is also the Fairest and the Most Reasonable.

It is argued by the Government (p. 14 of the brief) that:

> "The construction urged by appellant that, in complete ignorance of the enormous liabilities to be fastened on the taxpayer, and contrary to all precedent, Congress, by force of an obscure implication hidden in paragraph 4, intended to involve the government in suits to recover lost profits by every coal producer and dealer in the United States who operated under Federal regulation whether his plant was or was not requisitioned, is wholly unreasonable."

In other words, the argument is advanced that it is unthinkable that Congress could have intended to recompense every producer for whom the prices fixed were too low. But is not this precisely what was provided in paragraphs 6 and 8 of this same Sec. 25, which contemplated that the United States would as a sort of Sales Agent take over all the coal in the United States at a fixed price and then resell it to the public and guarantee the producer that if the price fixed was not proper compensation, the United States would make up the difference out of the taxpayers' money? And is not this precisely what

was contemplated by Senator Pomerene's amendment as it passed the Senate? And is it not precisely what was done by the United States in connection with the Railroads and Telephone Companies during war time? Under control of the United States the Railroads sold transportation to the public at a price fixed by the United States and the United States then paid the owners of the Railroads the difference between the net receipts from the rates so fixed and a reasonable return upon the investment of the owners.

Then why is it "wholly unreasonable" to suppose that Congress intended to do the very same thing with coal?

On the contrary, if we consider merely what Congress probably intended to do, there is every indication that it intended to do just what we contend was done.

As we see it, there are only two ways in which Congress could constitutionally regulate rates or prices. One is merely to fix or authorize the fixing of rates, and the other is to fix or authorize the fixing of rates with a Government guaranty against loss if the rates are fixed too low.

The first method is that customarily employed in times of peace, and the Railroad rates are the best example of it. If the rates fixed by the I. C. C. are so low as to be confiscatory the

accepted remedy of the carrier is to secure an injunction from the Court to restrain the enforcement of such rates. The result of such a proceeding is to prevent the enforcement of the rate until the question is settled, and finally the rate will be raised above the confiscatory level.

The fixing of rates without any guaranty would of necessity mean that injunctions could have been obtained against the enforcement of any rates which were confiscatory. The war power of Congress, broad as it is, is limited by the Fifth Amendment, and Congress could not, even in time of war, compel the enforcement of a price or rate which would amount to confiscation. Hamilton v Kentucky Distilleries Co. 251 U. S. 146, 156.

The other method, where rates are fixed coupled with a guaranty, eliminates the possibility of and the necessity for an injunction if the rates are fixed too low. The guaranty would be inserted for the express purpose of insuring that the rates fixed would be enforced and of preventing any possibility of disturbance of the rates by injunction.

In time of peace the first method would obviously be the better one, because as a rule there is no pressing necessity for immediate enforcement of the rates.

But in time of war the whole situation is changed. The orders of the Government must be obeyed.

There is no time for discussions and injunctions over confiscation. The purpose of the fixing of the rates is to help win the war and if the enforcement of these rates is to await final determination by the Court of last resort on the question of confiscation, the war may be over and lost before then.

The thing to do was to say to such persons as this claimant, "Do not argue now about these prices. Mine all the coal you possibly can. We must have it. If after all is over you are out of pocket, we will make good your loss to you and will distribute it over the entire country."

Would this be a "wholly unreasonable" thing for Congress to do?

Relying on this guaranty the present claimant proceeded to mine coal to the extent of its ability and at the end of the seventeen months of price fixing found that the receipts from the prices fixed had not been sufficient to pay for the actual cost of getting it out of the ground.

Then when it brings this suit upon the guaranty, the Government says in its brief, "Why did you not get an injunction against Dr. Garfield if the prices he fixed for your coal were too low?" The answer is of course that no injunction could have been obtained because the guaranty was given by Congress for the express purpose of making

it unnecessary and impossible to secure an injunction.

Summary

Our position may be summarized as follows:

First: It is entirely reasonable to suppose that Congress would have intended to prevent interference with a war time regulation of prices by making a guaranty to those for whom the prices fixed were not fair.

Second: (a) From the wording of the 4th paragraph of Sec. 25 of the Lever Act it is plain that some remedy was intended to be given to the seller on sales made other than to the United States because:

(i) The words "prices so fixed" in paragraph 4 refer to the precedent authority in paragraph 1 to fix prices on sales other than to the United States, and

(ii) These words cannot refer to the fixing of prices on sales to United States authorized in the subsequent paragraph 6 because the remedy for the abuse of the authority in paragraph 6 is fully and completely covered by the subsequent paragraph 8 which refers explicitly to paragraph 6.

(b) Since some remedy was intended to be given the seller on sales between producer and consumer, and since it would be absurd to suppose that Congress intended to make up the difference

between 75% of the price fixed and a reasonable price, the only possible conclusion is that the producer was to receive the whole of the price from his purchaser, and have a right to sue the United States for the difference between that and a reasonable price.

Third: An examination of this provision as it passed the Senate shows conclusively that such a right was then given, and the report of the Conference Committee shows that the only change intended to be made by the Committee in this provision concerned sales to the United States and that no change was contemplated as applied to sales from producer to consumer.

Fourth: The wording is obscure as it stands, and cannot be made entirely clear without either eliminating or inserting certain words. The construction for which we contend does less violence to the structure of the paragraph, and is more consistent with the other portions of the section and with the general intent of Congress than any other possible construction.

During the war the Government, being all the people of the United States, required that every citizen enlist all his resources for the prosecution of the war.

By the war legislation Congress aimed to place the burden of the war not only on the comparatively few who controlled the facilities most necessary

for its operation, but equitably among all who profited by its successful termination.

Now that the war has been won, it is incumbent on the Courts to construe this war legislation in accordance with its purpose and spirit, to distribute the war burden equitably over the entire country, and, so far as the language of Congress will permit, to insure that any citizen who, relying on a guaranty of Congress that he would receive just compensation, has whole-heartedly employed all his resources in an essential industry, shall not suffer an unjust and uncompensated loss merely because, in the hurry of the amendment of necesary legislation, Congress did not express its clear and obvious intention in unambiguous language.

It is respectfully submitted that the judgment of the Court of Claims should be reversed and the demurrer of the United States to Claimant's petition should be overruled.

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APPENDIX A.

TEXT OF THE LEVER ACT AS IT WENT TO THE CONFERENCE COMMITTEE.

(This appendix shows the text of the bill in the form in which it originally passed the House, together with the amendments thereto adopted by the Senate. In the form here shown the bill went to the Conference Committee. Erased provisions were stricken out in the Senate prior to submission to the Conference Committee; italicized provisions were inserted in the Senate.)

65th Congress. 1st Session.

H. R. 4961.

IN THE HOUSE OF REPRESENTATIVES.
July 23, 1917.

Ordered to be printed with the amendments of the Senate numbered.

AN ACT

To provide further for the national security and defense by encouraging the production, conserving the supply, and controlling the distribution of food products and fuel.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(1) ~~That, by reason of the existence of a state of war, it is essential to the national security and defense, for the successful prosecution of the war, and for the support and maintenance of the Army and Navy, to assure an adequate supply and equitable distribution, and to facilitate the movement, of foods, feeds, fuel, and articles required for their production, hereafter in this Act called necessaries; to prevent, locally~~

~~or generally, scarcity, monopolization, hoarding, injurious speculation, manipulations, and private controls, affecting such supply, distribution, and movement; and to establish and maintain governmental control of such necessaries during the war. For such purposes the instrumentalities, means, methods, powers, authorities, duties, obligations, and prohibitions hereinafter set forth are created, established, conferred, and prescribed.~~

That, by reason of the existence of a state of war, it is essential to the national security and defense, for the successful prosecution of the war, and for the support and maintenance of the Army and Navy, to assure an adequate supply and equitable distribution, and to facilitate the movement, of foods, feeds, and fuel, including kerosene and gasoline, hereafter in this Act called necessaries; to prevent, locally or generally, scarcity, monopolization, hoarding, injurious speculation, or manipulations, affecting such supply, distribution, and movement; and to establish and maintain governmental control of such necessaries during the war. The President is authorized to make such regulations and to issue such orders as he may deem advisable to carry out the provisions of this Act. He is further authorized and directed to appoint, by and with the advice and consent of the Senate, three commissioners, at an annual salary of $7,500 each, payable monthly, who shall constitute a Board of Food Administration, and who shall perform such duties in carrying out the purposes of this Act as the President shall direct. One of said commissioners shall be a farmer actually engaged at the time of his appointment in the cultivation of the soil. The President shall designate the chairman of said board. Said commissioners shall hold office at the pleasure of the President during the continuance of the war.

(2) ~~Sec. 2. That words used in this Act shall be construed to import the plural or the singular, as the~~

~~case demands. The word "person," wherever used in this Act, shall include individuals, partnerships, associations, and corporations. When construing and enforcing the provisions of this Act, the act, omission, or failure of any official, agent, or other person acting for or employed by any partnership, association, or corporation within the scope of his employment or office shall, in every case, also be deemed the act, omission, or failure of such partnership, association, or corporation as well as that of the person.~~

SEC. (3) ~~3~~ *2.* That (4) ~~there is hereby established a governmental control of necessaries which shall extend to and include all the processes, methods, instrumentalities and activities of and for the production, manufacture, procurement, storage, distribution, sale, marketing, pledging, financing, and consumption of necessaries, which shall be exercised and administered by the President for the purposes of this Act as hereinafter provided; and all such necessaries, processes, methods, and activities are hereby declared to be Affected with a public interest. And~~ in carrying out the purposes of this (5) ~~section~~ *Act* the President is authorized to enter into any voluntary arrangements or agreements, to (6) *create and* use any agency or agencies, to accept (7), *in his discretion,* the services of any person without compensation, to cooperate with any agency or person, to utilize any department or agency of the Government, and to coordinate their activities so as to avoid any preventable loss or duplication of effort or funds.

(8) SEC. *3. That no person acting either as a voluntary or paid agent or employee of the United States in any capacity, including an advisory capacity, shall solicit, induce, or attempt to induce any person or officer authorized to execute or to direct the execution of contracts on behalf of the United States to make any contract or give any order for the furnishing to the United States of work, labor, or services, or of materials, supplies, or other property of any kind or character, if such*

agent or employee has any pecuniary interest in such contract or order, or if he or any firm of which he is a member, or corporation, joint-stock company, or association of which he is an officer or stockholder, or in the pecuniary profits of which he is directly or indirectly interested, shall be a party thereto. Nor shall any agent or employee make, or permit any committee or other body of which he is a member to make, or participate in making, any recommendation concerning such contract or order to any council, board, or commission of the United States, or any member or subordinate thereof, without making to the best of his knowledge and belief a full and complete disclosure in writing to such council, board, commission, or subordinate of any and every pecuniary interest which he may have in such contract or order and of his interest in any firm, corporation, company, or association being a party thereto. Nor shall he participate in the awarding of such contract or giving such order. Any willfull violation of any of the provisions of this section shall be punishable by a fine of not more than $10,000, or by imprisonment of not more than five years, or both: Provided, That the provisions of this section shall not change, alter or repeal section forty-one of Thirty-fifth Statutes at Large.

SEC. 4. That it is hereby made unlawful for any person willfully to destroy any necessaries for the purpose of enhancing the price or restricting the supply thereof; knowingly to commit waste or willfully to permit preventable deterioration of any necessaries in or in connection with their production, manufacture, or distribution; to hoard, as defined in section six of this Act, any necessaries; to monopolize or attempt to monopolize either locally or generally, any necessaries; to engage in any discriminatory and unfair, or any deceptive or wasteful practice or device, or to make any unjust or unreasonable rate or charge, in handling or dealing in or with any necessaries; to conspire, combine, agree,

or arrange with any other person, (a) to limit the facilities for transporting, producing, (9) *harvesting*, manufacturing, supplying, storing, or dealing in any necessaries; (b) to restrict the supply of any necessaries; (c) to restrict distribution of any necessaries; (d) (10) *willfully* to prevent, limit, or lessen the manufacture or production of any (11) ~~necessaries,~~ or *necessaries in order* to enhance the price thereof, or (e) to exact excessive prices for any necessaries (12); ~~or to aid or abet the doing of any act made unlawful by this section.~~ *Any person who violates any of the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum not exceeding $10,000, or by imprisonment not exceeding two years, or both.*

(13) ~~SEC. 5. That, from time to time, whenever the President shall find it essential to license the importation, exportation, manufacture, storage, mining, or distribution of any necessaries, in order to carry into effect any of the purposes of this Act, and shall publicly so announce, no person shall, after a date fixed in the announcement, engage in or carry on any such business specified in the announcement of importation, exportation, manufacture, storage, mining or distribution of any necessaries as set forth in such announcement, unless he shall secure and hold a license issued pursuant to this section. The President is authorized to issue such licenses and to prescribe regulations for the issuance of licenses and requirements for systems of accounts and auditing of accounts to be kept by licensees, submission of reports by them, with or without oath or affirmation, and the entry and inspection by the President's duly authorized agents of the places of business of licenses. Whenever the President shall find that any rate, charge, or practice of any licensee is unjust, or unreasonable, or discriminatory and unfair, or wasteful, and shall order such licensee, within a reasonable time fixed in the order to discontinue any such unjust, unreasonable, discriminatory and unfair,~~

~~or wasteful rate, charge, or practice, thereafter, unless such order is revoked or suspended, such licensee shall, within the time prescribed in the order, discontinue such unjust, unreasonable, discriminatory and unfair, or wasteful rate, charge, or practice. The President may, in lieu of any such unjust, unreasonable, discriminatory and unfair, or wasteful rate, charge, or practice, find what is a just, reasonable, nondiscriminatory and fair, or economical rate, charge, or practice; and in any suit in any Federal or State court of competent jurisdiction such finding of the President shall be prima facie evidence. Any person, who, without a license issued pursuant to this section, knowingly engages in or carriers on any business for which a license is required under this section, and any licensee who willfully fails or refuses to discontinue any unjust, unreasonable, discriminatory and unfair, or wasteful rate, charge, or practice, in accordance with the requirement of an order issued under this section, or willfully violates any provision of this section or any regulation prescribed under this section shall, upon conviction thereof, be punished by a fine not exceeding $5,000 or by imprisonment for not more than two years, or both: *Provided*, That this section shall not apply to any farmer, gardener, or other person with respect to the products of any farm, garden, or other land owned, leased, or cultivated by him, nor to any retailer with respect to the retail business actually conducted by him, nor to any common carrier, nor shall anything in this section be construed to authorize the fixing or imposition of a duty or tax upon any article imported into or exported from the United States or any State, Territory, or the District of Columbia: *Provided*, That for the purpose of this Act a retailer shall be deemed to be a person, copartnership, firm, corporation, or association not engaging in the wholesale business whose gross sales do not exceed $100,000 per annum.~~

SEC. 5. *That the president is authorized, whenever in his judgment the national security and defense will be thereby subserved, to require the following persons to take out licenses in such form and under such rules and regulations as he may prescribe, to wit: First, any person operating an elevator or other storage facility used for the storing of wheat which constitutes a part of interstate or foreign commerce; second, any person operating a cold-storage establishment for the storage of meat, poultry, eggs, or dairy products constituting a part of interstate or foreign commerce; third, any person operating a packing house producing meat or meat products which enter into interstate or foreign commerce; fourth, any person operating a factory which produces farm implements or machinery which enter into interstate or foreign commerce; fifth, any person operating a coal mine producing coal, and any person dealing in coal, which enters into interstate or foreign commerce; sixth, any person engaged in producing, storing, or handling fertilizer or fertilizer ingredients which enter into interstate or foreign commerce; seventh, any person, not a retailer as defined in this section, who shall engage in handling any of the foregoing enumerated products. Whenever the President shall give notice that the foregoing persons, or any of them, shall be required to take out a license as herein provided, it shall be unlawful for any person to engage in any such business without having obtained said license and conforming to the rules and regulations prescribed in connection therewith. Whenever the President shall have given said notice it shall be unlawful for any carrier to receive for transportation any of the foregoing enumerated products from any person who shall not have obtained the license herein authorized and provided for. Whenever the President shall find that any storage charge, commission, profit, or practice of any licensee is unjust, or unreasonable, or discriminatory and unfair, or wasteful, and shall order*

such licensee, within a reasonable time fixed in the order to discontinue the same, unless such order, which shall recite the facts found, is revoked or suspended, such licensee shall, within the time prescribed in the order, discontinue such unjust, unreasonable, discriminatory, and unfair storage charge, commission, profit, or practice. The President may, in lieu of any such unjust, unreasonable, discriminatory and unfair storage charge, commission, profit, or practice, find what is a just, reasonable, nondiscriminatory, and fair storage charge, commission, profit, or practice, and in any proceeding brought in any court such order of the President shall be prima facie evidence. Any person who, without a license issued pursuant to this section, knowingly engages in or carries on any business for which a license is required under this section, or willfully fails or refuses to discontinue any unjust, unreasonable, discriminatory, and unfair storage charge, commission, profit or practice, in accordance with the requirement of an order issued under this section, or any regulation prescribed under this section or the officer or agent of any carrier who shall knowingly receive for transportation any such product from any person so required to take out such license but who shall have failed or refused to do so, or whose license shall have been revoked, shall, upon conviction thereof, be punished by a fine not exceeding $5,000 or by imprisonment for not more than two years, or both: Provided, That this section shall not apply to any farmer, gardener, cooperative association of farmers or gardeners, including livestock farmers, or other prsons with respect to the products of any farm, garden, or other land owned, leased, or cultivated by him, nor to any retailer with respect to the retail business actually conducted by him, nor shall anything in this section be construed to authorize the fixing or imposition of a duty or tax upon any article imported into or exported from the United States, or any State, Territory, or the District of Co-

lumber: Provided further, That for the purposes of this Act a retailer shall be deemed to be a person, copartnership, firm, corporation, or association not engaging in the wholesale business whose gross sales do not exceed $100,000 per annum.

SEC. 6. That (14) ~~any person who willfully hoards any necessaries shall upon conviction thereof be fined not exceeding $5,000 or be imprisoned for not more than two years, or both. Necessaries~~ *necessaries* shall be deemed to be hoarded within the meaning of this Act when either (15) ~~(a) held, contracted for, or arranged for by any person in a quantity in excess of his reasonable requirements for use or consumption by himself and dependents for a reasonable time;~~ (~~b~~ a) held, contracted for, or arranged for by any manufacturer, wholesaler, retailer, or other dealer in a quantity in excess of the reasonable requirements of his business for use or sale by him for a reasonable time, or reasonably required to furnish necessaries produced in surplus quantities (16) ~~seasonably~~ *seasonably* throughout the period of scant or no production; or (17) (~~c~~ b) withheld, whether by possession or under any contract or arrangement, from the market by any person for the purpose of unreasonably increasing or diminishing the price: *Provided, however,* That any accumulating or withholding by any (18) ~~farmer,~~ *farmer or* gardener, (19) *cooperative association of farmers or gardeners, including live-stock farmers,* or any other person, of the products of any farm, garden, or other land owned, leased, cultivated by him shall not be deemed to be hoarding within the meaning of this Act.

SEC. 7. That whenever any necessaries shall be hoarded as defined in section six they shall be liable to be proceeded against in any district court of the United States within the district where the same are found and seized by a process of libel for condemnation, and if such necessaries shall be adjudged to be hoarded they shall be disposed of by sale in such manner

as to provide the most equitable distribution thereof as the court may direct, and the proceeds thereof, less the legal costs and charges, shall be paid to the party entitled thereto. The proceedings (20) ~~of~~ *in* such libel cases shall conform as (21) ~~near~~ *nearly* as may be to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any such case, and all such proceedings shall be at the suit of and in the name of the United States. It shall be the duty of the United States attorney for the proper district to institute and prosecute any such action upon presentation to him of satisfactory evidence to sustain the same.

(22) ~~SEC. 8. That any person who willfully destroys any necessaries for the purpose of enhancing the price or restricting the supply thereof shall, upon conviction thereof be fined not exceeding $5,000 or imprisoned for not more than two years, or both.~~

(23) ~~SEC. 9. That any person who conspires, combines, agrees, or arranges with any other person (a) to limit the facilities for transporting, producing, manufacturing, supplying, storing, or dealing in any necessaries; (b) to restrict the supply of any necessaries; (c) to restrict the distribution of any necessaries; (d) to prevent, limit, or lessen the manufacture or production of any necessaries; or (e) to enhance the price of any necessaries shall, upon conviction thereof, be fined not exceeding $10,000 or be imprisoned for not more than two years, or both.~~

(24) ~~SEC. 10. That to carry into effect the purposes of this Act the President is authorized to purchase and provide for the production or manufacture of necessaries; to store them and to provide storage facilities for them by construction, purchase, lease, or otherwise; to sell them to any citizen of the United States or to any Government engaged in war with any country with which the Government of the United States is or may be at war; and to require any person having the control of any necessaries, or any storage~~

~~space suitable for the storing of necessaries, to furnish the whole or any part of such necessaries or storage space to the Government in such quantities, at such times and at such prices as shall be determined by the President to be reasonable. Upon failure of the person to comply with such requirement, the President is authorized to requisition and take possession of any such necessaries or storage space, and to pay for them at the price so determined.~~

SEC. 8. *That the President is authorized from time to time,* (a) *to requisition foods, feeds, fuels, and other supplies necessary to the support of the Army or the maintenance of the Navy, or any other public use connected with the common defense, and to requisition storage facilities for such supplies; and he shall ascertain and pay a just compensation therefor.* If the (25) ~~price~~ *compensation* so determined be not satisfactory to the person entitled to receive the same, such person shall be paid (26) *seventy-five per centum* of the amount (27) ~~prescribed~~ *so determined* by the President, and shall be entitled to sue the United States to recover such further sum as added to (28) ~~the amount so paid~~, *said seventy-five per centum* will (29) *make up such amount as will* be just compensation (30) ~~for such necessaries or storage space, and jurisdiction is hereby conferred on the United States District Courts to hear and determine all such controversies~~ *therefor, in the manner provided for by section twenty-four, paragraph twenty, and section one hundred and forty-five of the Judicial Code: Provided,* That nothing in this section (31), *or in the section that follows,* shall be construed to require any natural person to furnish to the Government any necessaries held by him and reasonably required for consumption or use by himself and dependents (32) ~~for a reasonable time. Any moneys received by the United States from or in connection with the disposal by the United States of necessaries under this section may, in the discretion of the President, be used as a revolving fund for~~

~~further carrying out the purposes of this section. Any balance of such moneys not used as part of such revolving fund shall be covered into the Treasury as miscellaneous receipts~~, *nor shall any person, firm, corporation, or association be required to furnish to the Government any seed necessary for the seeding of land owned, leased, or cultivated by them.*

(33) SEC. *9. That the President is authorized from time to time in order to guarantee reasonable prices to the producer and to the consumer, to purchase, to store, to provide storage facilities for, and to sell for cash at reasonable prices, fuel, wheat, flour, meal, beans, and potatoes: Provided, That if any minimum price shall have been theretofore fixed, pursuant to the provisions of section twelve of this Act, then the price paid for any foods, feeds or fuel so purchased shall not be less than such minimum price. Any moneys received by the United States from or in connection with the disposal by the United States of necessaries under this section may, in the discretion of the President, be used as a revolving fund for further carrying out the purposes of this section. Any balance of such moneys not used as part of such revolving fund shall be covered into the Treasury as miscellaneous receipts.*

SEC. (34) ~~11~~ *10.* That whenever the President shall find (35) ~~that it is impossible by license or by voluntary arrangement or agreement to assure an adequate and continuous supply of necessaries~~, *it necessary to secure an adequate supply of necessaries for the support of the Army or the maintenance of the Navy, or for any other public use connected with the common defense,* he is authorized to requisition and take over, for use or operation by the Government, any factory, (36) *packing house,* mine, or other plant, or any part thereof, in (37) *or through* which any necessaries are or may be manufactured, produced, prepared, or mined (38), *and to operate the same.* Whenever the President shall determine that the further use or operation by the Government of any such factory, mine, or plant, or part

thereof, is not essential for the national security or defense, the same shall be restored to the person entitled to the possession thereof. The United States shall make just compensation, to be determined by the President, for the taking over, use, occupation, and operation by the Government of any such factory, mine, or plant or part thereof. If the (39) ~~amount~~ *compensation* so determined be unsatisfactory to the person entitled to receive the same, such person shall be paid (40) *seventy-five per centum of* the amount (41) ~~prescribed~~ *so determined* by the President, and shall be entitled to sue the United States to recover such further sum as, added to (42) ~~the amount paid~~ *said seventy-five per centum,* will (43) *make up such amount as will* be just compensation, in the manner provided by section twenty-four, paragraph twenty, and section one hundred and forty-five of the Judicial Code. The President is authorized to prescribe such regulations as he may deem essential for carrying out the purposes of this section, including (44) ~~the operation of any such factory, mine, or plant, or part thereof~~, the purchase, sale, or other disposition of articles used, manufactured, produced, prepared, or mined therein, and the employment, control, and compensation of employees (45): *Provided, that whenever any person or persons entitled to receive such wages are dissatisfied with the rate of wages so fixed by the President, he or they shall have the right to have the reasonableness of such wages reviewed and determined by the Board of Mediation and Conciliation created by the Act approved July fifteenth, nine hundred and thirteen; and in case said board shall conclude that a higher rate of wages shall be allowed their finding shall be conclusive in the premises, and said board shall prescribe rules and regulations for carrying this proviso into effect.* Any moneys received by the United States from or in connection with the use or operation of any such factory, mine, or plant, or part thereof, may, in the discretion of the President, be used as a revolving fund for the pur-

pose of the continued use or operation of any such factory, mine, or plant, or part thereof, and the accounts of each such factory, mine, plant, or part thereof, shall be kept separate and distinct. Any balance of such moneys not used as part of such revolving fund shall be paid into the Treasury as miscellaneous receipts. (46) *The word "mine" as used in this section shall be held to include oil and gas wells and oil and gas pipe lines.*

SEC. (47) 12 *11.* That (48) ~~undue enhancement or fluctuation of prices of, or injurious speculation in, or unjust market manipulation or unfair and misleading market quotations of the prices of necessaries, are hereby prohibited, and~~ whenever the President finds it essential in order to prevent undue enhancement, depression, or fluctuation of prices of, or in order to prevent injurious speculation in or in order to prevent unjust market manipulation or unfair and misleading market quotations of the prices of necessaries, hereafter in this section called evil practices, he is authorized to prescribe such regulations governing, or may either wholly or partly prohibit, operations, practices, and transactions at, on, in, or under the rules of any exchange, board of trade, or similar institution or place of business as he may find essential in order to prevent, correct, or remove such evil practices. (49) ~~Further, for the purposes of this section, the President~~ *Such regulations* may require all persons coming within (50) ~~its~~ *their* provisions to keep such records and statements of account, and may require such persons to make such returns, verified under oath or otherwise, as will fully and correctly disclose all transactions at, in, or on, or under the rules of any such exchange, board of trade, or similar institution or place of business, including the making, execution, settlement, and fulfillment thereof. He may also require all persons acting in the capacity of a clearing house, clearing association,

or similar institution, for the purpose of clearing, settling, or adjusting transactions at, in, or on, or under the rules of any such exchange, board of trade, or similar institution or place of business, to keep such records and to make such returns as will fully and correctly disclose all facts in their possession relating to such transactions (51), ~~and he may appoint agents to conduct the investigations necessary to enforce the provisions of this section and all rules and regulations made by him in pursuance thereof, and may fix and pay the compensation of such agents.~~ Any person who willfully violates any regulation made pursuant to this section, or who knowingly engages in any operation, practice, or transaction prohibited pursuant to this section, (52) ~~or who willfully aids or abets any such violation or any such prohibited operation, practice, or transaction,~~ shall, upon conviction thereof, be punished by a fine not exceeding $10,000 or by imprisonment for not more than four years, or both.

(53) *That any building or room occupied or used by a board of trade, chamber of commerce, grain exchange, or otherwise, in which wheat or other food cereals are bought or sold for present or future delivery shall, for the purpose of this Act, be known as a grain exchange.*

All persons engaged in buying or selling in interstate or foreign commerce, for present or future delivery, any wheat or other food cereal, in or about any such grain exchange, shall be known and designated as traders in grain.

All sales of wheat or other food cereals by such traders in such exchanges for future delivery, and not for present or immediate delivery, shall be known and designated as dealings in futures.

If at any time during the pendency of the existing war between the United States and the German Empire the President of the United States shall find that such dealings in futures, in or about any grain exchange, unduly or unreasonably raise or enhance the price of wheat

or other food cereals, to the injury of the people of the United States, he may at once request the traders in such exchange to discontinue for a time specified by him all dealings in futures. In case such request of the President is not promptly complied with, then he is hereby empowered to order such dealings in futures, as last aforesaid, to be entirely suspended and discontinued for such limited time as he may direct, and if such order is not promptly complied with he may by proclamation declare such exchange closed, and thereafter it shall be unlawful to utilize or permit to be utilized such building or room as a grain exchange or for any person, being a trader in grain on such exchange, to engage in the business theretofore conducted on or at such closed exchange.

Any person violating any of the provisions of this Act shall be punished by a fine of not less than $500 or by imprisonment for not more than one year, or by both such fine and imprisonment.

(54) ~~SEC. 13. That, whenever the President shall find that an emergency exists requiring stimulation of production and that it is essential that the producers of any nonperishable agricultural food or food products produced within the United States shall have the benefits of the guarantee provided for in this section in order to stimulate production of such products, he is authorized, from time to time, seasonably and as far in advance of seeding time as practicable, to determine and fix and to give public notice of what, under specified conditions, is a reasonable guaranteed price for any such products, in order to assure such producers a reasonable profit. Thereupon, the Government of the United States hereby guarantees every producer of any merchantable nonperishable agricultural food or feed products produced within the United States, for which a guaranteed price shall be fixed by notice in accordance with this section, that, upon compliance by him with the regulations prescribed by the President, he will receive for any such products produced in~~

reliance upon this guarantee within the period, not exceeding eighteen months, prescribed in the notice, a price not less than the guaranteed price therefor as fixed pursuant to this section. In such regulations the President shall prescribe the terms and conditions upon which any such producer shall be entitled to the benefits of such guaranty. When the President finds that the importation into the United States of any such product produced outside of the United States seriously interferes or is likely seriously to interfere with the practical operation of any guaranteed price therefor fixed pursuant to this section, or materially enhances or is likely materially to enhance the liabilities of the United States under guaranties of prices therefor made pursuant to this section, and ascertains what rate of duty, added to the then existing rate of duty on any such product and to the value of such product at the time of importation, would be sufficient to bring the price thereof at which imported up to the price fixed therefor pursuant to the foregoing provisions of this section, he shall proclaim such facts, and thereafter there shall be levied, collected, and paid upon such product when imported, in addition to the then existing rate of duty, the rate of duty so ascertained; but in no case shall any such rate of duty be fixed at an amount which will effect a reduction of the rate of duty upon any such products under any then existing tariff law of the United States. For the purpose of making any guaranteed price effective under this section, or whenever he deems it essential in order to protect the Government of the United States against material enhancement of its liabilities arising out of any guaranty under this section, the President is authorized also, in his discretion, to purchase any such products for which a guaranteed price shall be fixed under this section, and to hold, transport, or store them, or to sell, dispose of, and deliver the same to any citizen of the United States or to any government engaged in war with any country

~~with which the Government of the United States is or may be at war or to use the same as supplies for any department or agency of the Government of the United States. Any moneys received by the United States from or in connection with the sale or disposal of any products under this section, may, in the discretion of the President, be used as a revolving fund for further carrying out the purposes of this section. Any balance of such moneys not used as part of such revolving fund shall be covered into the Treasury as miscellaneous receipts.~~

SEC. *12. That whenever the President shall find that an emergency exists requiring stimulation of the production of wheat and that it is essential that the producers of wheat, produced within the United States, shall have the benefits of the guaranty provided for in this section, he is authorized, from time to time, seasonably and as far in advance of seeding time as practicable, to require the Board of Food Administration to determine and fix and to give public notice of what, under specified conditions, is a reasonable guaranteed price for wheat, in order to assure such producers a reasonable profit. Said board shall thereupon fix such guaranteed price for each of the official grain standards for wheat as established under the United States grain standards Act, approved August eleventh, nineteen hundred and sixteen. It shall from time to time establish and promulgate such regulations as it shall deem wise in connection with such guaranteed prices, and in particular governing conditions of delivery and payment, and differences in price for the several standard grades in the principal primary markets of the United States, adopting number one northern or its equivalent at the principal interior primary markets as the basis. Thereupon, the Government of the United States hereby guarantees every producer of wheat produced within the United States, that, upon compliance by him with the regulations prescribed, he shall receive for any wheat produced in reliance upon*

this guarantee within the period, not exceeding eighteen months, prescribed in the notice, a price not less than the guaranteed price therefore as fixed pursuant to this section. In such regulations the Board of Food Administration, subject to the approval of the President, shall prescribe the terms and conditions upon which any such producer shall be entitled to the benefits of such guaranty. The guarantee prices for the several standard grades of wheat from the passage of this Act to the first day of July, nineteen hundred and nineteen, shall be based upon number one northern or its equivalent at not less than $2 per bushel at the principal interior primary market. This guaranty shall not be dependent upon the action of the President or said board under the first part of this section, but is hereby made absolute. When the President finds that the importation into the United States of any wheat produced outside of the United States materially enhances or is likely materially to enhance the liabilities of the United States under guaranties of prices therefor made pursuant to this section, and ascertains what rate of duty, added to the then existing rate of duty on wheat and to the value of wheat at the time of importation, would be sufficient to bring the price thereof at which imported up to the price fixed therefor pursuant to the foregoing provisions of this section he shall proclaim such facts, and thereafter there shall be levied, collected, and paid upon wheat when imported, in addition to the then existing rate of duty, the rate of duty so ascertained; but in no case shall any such rate of duty be fixed at an amount which will effect a reduction of the rate of duty upon wheat under any then existing tariff law of the United States. For the purpose of making any guaranteed price effective under this section, or whenever he deems it essential in order to protect the Government of the United States against material enhancement of its liabilities arising out of any guaranty under this section, the President is author-

ized also, in his discretion, to purchase any wheat for which a guaranteed price shall be fixed under this section, and to hold, transport, or store it, or to sell, dispose of, and deliver the same to any citizen of the United States or to any Government engaged in war with any country with which the Government of the United States is or may be at war or to use the same as supplies for any department or agency of the Government of the United States. Any moneys received by the United States from or in connection with the sale or disposal of wheat under this section may, in the discretion of the President, be used as a revolving fund for further carrying out the purposes of this section. Any balance of such moneys not used as part of such revolving fund shall be covered into the Treasury as miscellaneous receipts.

(55) ~~SEC. 14. That no person shall use any foods, food materials, or feeds in the production of alcohol, except for governmental, industrial, scientific, medicinal, or sacramental purposes, or of alcoholic beverages. Any person who willfully violates this section shall, upon conviction thereof, be punished by a fine not exceeding $5,000, or by imprisonment for not more than two years, or both.~~

SEC. *13. That from and after thirty days from the date of the approval of this Act no person shall use any foods, fruits, food materials, or feeds in the production of distilled liquors, except for governmental, industrial, manufacturing, scientific, or medicinal purposes. Nor shall there be imported into the United States during said war any distilled liquors. Any person who wilfully violates this section shall, upon conviction thereof, be punished by a fine of not exceeding $5,000, or by imprisonment for not more than two years, or both: Provided, That the President of the United States be, and hereby is, directed to take over for and on behalf of the Government of the United States all distilled liquors that are held in bond at the time this Act goes*

into effect, and he is hereby authorized to pay to the owners of such liquors the actual cost of the same plus a profit not exceeding ten per centum; Provided further, That the collection of all excise taxes on distilled spirits in bond at the time of the passage of this Act shall be suspended so long as this Act is in force, and the distiller, in event that said distilled spirits shall be taken over by the Government, as herein provided, shall be discharged from all obligation for any and all taxes levied and assessed against said distilled spirits: And provided further, That the owner of the distilled spirits shall not withdraw any part thereof without the payment of the excise tax in force.

(56) ~~SEC. 14a. That the President is authorized, if, in his opinion, it is necessary to conserve necessaries, to require any person having control of alcohol and distilled spirits, to turn over to the Government for use of redistillation, such proportion of said alcohol or spirits as the President may deem necessary to meet the requirements of the Government in the manufacture of munitions and other military and hospital supplies in so far as such use or redistillation would dispense with the necessity of utilizing products and materials suitable for food and feeds in the future manufacture of alcohol or distilled spirits for the purposes herein enumerated. Upon the failure of the person to comply with the President's requirement, the President is authorized to requisition and take possession of the alcohol and distilled spirits required to be turned over and to pay for same a just compensation to be determined by the President. And if the price so determined be not satisfactory to the person entitled to receive the same, such person shall be paid the amount prescribed by the President and shall be entitled to sue the United States to recover such further sum as, added to the amount so paid, will be just compensation for such spirits or alcohol, in the manner provided by section twenty four~~,

~~paragraph twenty, and section one hundred and forty five of the Judicial Code.~~

(57) ~~SEC. 15. That in carrying out the purposes of this Act, the President is authorized to create an agency or agencies, to accept the services of any person without compensation to cooperate with any agency or person, to utilize any department or agency of the Government, and to coordinate their activities so as to avoid any preventable loss of funds or duplication of work.~~

(58) SEC. *14. That the President is authorized and directed to commandeer any or all distilled spirits in bond at the date of the approval of this Act for redistillation, in so far as such redistillation may be necessary to meet the requirements of the Government in the manufacture of munitions and other military and hospital supplies, or in so far as such redistillation would dispense with the necessity of utilizing products and materials suitable for foods and feeds in the future manufacture of distilled spirits for the purposes herein enumerated. The President shall determine and pay a just compensation for the distilled spirits so commandeered; and if the compensation so determined be not satisfactory to the person entitled to receive the same, such person shall be paid seventy-five per centum of the amount so determined by the President and shall be entitled to sue the United States to recover such further sum as, added to said seventy-five per centum, will make up such amount as will be just compensation for such spirits, in the manner provided by section twenty-four, paragraph twenty, and section one hundred and forty-five of the Judicial Code.*

(59) ~~SEC. 16. That the President is authorized to make such regulations and to issue such orders as are essential effectively to carry out the provisions of this Act.~~

SEC. (60) ~~17~~ *15.* That every person who willfully assaults, resists, impedes, or interferes with any officer, employee, or agent of the United States in the exe-

cution of any duty authorized to be performed by or pursuant to this Act shall upon conviction thereof be fined not exceeding $1,000 or be imprisoned for not more than one year, or both.

(61) ~~SEC. 18. That the sum of $2,500,000 is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to be available until June thirtieth, nineteen hundred and eighteen, for the payment of such rent, the expense, including postage, of such printing and publications, the purchase of such material and equipment, and the employment of such persons and means, in the City of Washington and elsewhere, as the President may deem essential: Provided, That all persons, excepting persons serving without compensation, shall be appointed in accordance with the provisions of the civil service Act of January sixteenth, eighteen hundred and eighty three.~~

SEC. *16. That the sum of $2,500,000 is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to be available until June thirtieth, nineteen hundred and eighteen, for the payment of such rent, the expense, including postage, of such printing and publications, the purchase of such material and equipment, and the employment of such persons and means, in the city of Washington and elsewhere, as the President may deem essential; Provided, That all salaries and wages paid under the provisions of this Act shall be the equivalent of salaries and wages paid in other departments of the Government for like services, and in no event shall any salary be paid in excess of $3,500 except as herein specifically provided.*

SEC. (62) ~~19~~ *17.* That for the purposes of this Act the sum of $150,000,000 is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to be available during the time this Act is in effect: *'Provided,* That no part of this appropriation shall be expended for the purposes described in the preceding section (63): *Provided further, That item-*

ized statements covering all purchases and disbursements under this and the preceding section shall be filed with the Secretary of the Senate and the Clerk of the House of Representatives on or before the tenth day of each month after the taking effect of this Act, covering the business of the preceding month, and said statements shall be subject to public inspection.

SEC. (64) ~~20~~ *18.* That the employment of any person under the provisions of this Act shall not exempt any such person from military service under the provisions of the selective draft law approved May eighteenth, nineteen hundred and seventeen.

(65) SEC. ~~21~~ *19.* The President shall cause a detailed report to be made to the Congress on the first day of January each year of all proceedings had under this Act during the year preceding. Such report shall, in addition to other matters, contain an account of all persons appointed or employed, the salary or compensation paid or allowed each, the aggregate amount of the different kinds of property purchased or requisitioned, the use and disposition made of such property, and a statement of all receipts, payments, and expenditures, together with a statement showing the general character, and estimated value of all property then on hand, and the aggregate amount and character of all claims against the United States growing out of this Act.

(66) ~~SEC. 22. That if any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof, directly involved in the controversy in which such judgment shall have been rendered.~~

(67) SEC. *20. That words used in this Act shall be construed to import the plural or the singular, as the case demands. The word "person," wherever used in*

this Act, shall include individuals, partnerships, associations, and corporations.

SEC. (68) ~~23~~ *21.* That the provisions of this Act shall cease to be in effect when the existing state of war between the United States and Germany shall have terminated, and the fact and date of such termination shall be ascertained and proclaimed by the President; but the termination of this Act shall not affect any act done, or any right or obligation accruing or accrued, or any suit or proceeding had or commenced in any civil case before the said termination pursuant to this Act; but all rights and liabilities under this Act arising before its termination shall continue and may be enforced in the same manner as if the Act had not terminated. Any offense committed and all penalties, forfeitures, or liabilities incurred prior to such termination may be prosecuted or punished in the same manner and with the same effect as if this Act had not been terminated.

(69) SEC. *22. That it is necessary and proper, in order to execute the powers of Congress to raise and support armies, provide and maintain the Navy, and properly and efficiently provide for the common defense, that the President of the United States shall be, and he is hereby, authorized and empowered, whenever and wherever in his judgment necessary for the efficient prosecution of the war, to fix the price of coal and coke, wherever and whenever sold, either by producer or dealer, to establish rules for the regulation of and to regulate the method of sale, transportation, distribution, apportionment, or storage thereof among merchants and consumers, domestic or foreign; said authority and power may be exercised by him in each case through the agency of the Federal Trade Commission, during the war and for a period of one year thereafter, or for such part of said time as in his judgment may be necessary.*

That if, in the opinion of the President, any such

producer or dealer fails or neglects to conform to such prices or regulations, or to conduct his business efficiently under the regulations and control of the President as aforesaid, or conducts it in a manner prejudicial to the public interest, then the President is hereby authorized and empowered in every such case to requisition and take over the plant, business, and all appurtenances thereof belonging to such producer or dealer as a going concern, and to operate or cause the same to be operated in such manner and through such agency as he may direct during the period of the war and one year thereafter, or for such part of said time as in his judgment may be necessary.

While operating or causing to be operated any such plants or business, the President is authorized to prescribe such regulations as he may deem essential for the employment, control, and compensation of the employees necessary to conduct the same: Provided, That whenever any person or persons entitled to receive such wages are dissatisfied with the rate of wages so fixed by the President, he or they shall have the right to have the reasonableness of such wages reviewed and determined by the Board of Mediation and Conciliation created by the Act approved July fifteenth, nineteen hundred and thirteen, and the findings of said board fixing the rate of wages shall be conclusive in the premises, and said board shall prescribe rules and regulations for carrying this proviso into effect.

That if the prices so fixed, or if, in the case of the taking over or requisitioning of the mines or business of any such producer or dealer, the compensation or damages fixed be not satisfactory to the person or persons entitled to the same, such person or persons shall be paid the amount prescribed by the President and shall be entitled to sue the United States to recover such other sum as, added to the amount so paid, will be just compensation in the manner provided by

section twenty-four, paragraph twenty, and section one hundred and forty-five of the Judicial Code.

That any producer or dealer whose plant, business, and appurtenances shall have been requisitioned or taken over by the President shall be paid a fair and reasonable compensation for the use thereof or for damages incurred thereby during the period that the same may be requisitioned or taken over as aforesaid, which compensation and damages the President shall fix or cause to be fixed by the Federal Trade Commission or such other agent or agencies as he may designate.

Or if the President of the United States shall be of the opinion that he can hereby better provide for the common defense, and whenever, in his judgment, it shall be necessary for the efficient prosecution of the war, then he is hereby authorized and empowered to require any or all producers of coal and coke, either in any special area or in any special coal fields, or in the entire United States, to sell their products only to the United States through an agency to be designated by the President, such agency to regulate the resale of such coal and coke, and the prices thereof, and to fix the compensation to be paid such producers by the United States, and to establish rules for the regulation of and to regulate the methods of production, transportation, distribution, apportionment, or storage thereof among merchants and consumers, domestic or foreign, and to make payment of the purchase price thereof to the producers thereof, or to the person or persons legally entitled to said payment.

That within fifteen days after notice from the agencies so designated to any producer of coal and coke that his, or its, output is to be so purchased by the United States as hereinbefore described, such producer shall cease shipments of said product upon his own account and shall transmit to such agency all orders received and unfilled or partially unfilled,

showing the exact extent to which shipments have been made therein, and thereafter all shipments shall be made only on authority of the agency designated by the President, and thereafter no such producer shall sell any of said products except to the United States through such agency, and the said agency alone is hereby authorized and empowered to purchase during the continuance of the requirement the output of such producers.

That the prices to be paid for such products so purchased shall be based upon a fair and just profit over and above the cost of production, including proper maintenance and depletion charges, the reasonableness of such profits and cost of production to be determined by the Federal Trade Commission, and if the prices fixed by the said commission of any such product purchased by the United States as hereinbefore described be unsatisfactory to the person or persons entitled to the same, such person or persons shall have the right to sue the United States in the manner provided for by section twenty-four, paragraph twenty, and section one hundred and forty-five of the Judicial Code, to recover such other sum as added to the amount so fixed will be just compensation. All such products so sold to the United States shall be sold by the United States at such uniform prices, quality considered, as may be practicable and as may be determined by said agency to be just and fair.

Any moneys received by the United States for the sale of any such coal and coke may, in the discretion of the President, be used as a revolving fund for further carrying out the purposes of this section. Any moneys not so used shall be covered into the Treasury as miscellaneous receipts.

That when directed by the President, the Federal Trade Commission is hereby required to proceed immediately with all possible dispatch to make full inquiry giving such notice as it may deem practicable

into the cost of producing under reasonable efficient management at the various places of production the following commodities, to wit: Coal and coke.

The books, correspondence, records, and papers in anyway referring to transactions of any kind relating to the mining, production, sale, or distribution of all mine operators or other persons whose coal and coke have or may become subject to this section, and the books, correspondence, records, and papers of any person applying for the purchase of coal and coke from the United States shall at all time be subject to inspection by the said agency, and such person or persons shall promptly furnish said agency any data or information relating to the business of such person or persons which said agency may call for, and said agency is hereby authorized to procure the information in reference to the business of such coal-mine operators and producers of coke and customers therefore in the manner provided for in sections six and nine of the Act of Congress approved September twenty-sixth, nineteen hundred and fourteen, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and said agency is hereby authorized and empowered to exercise all the powers granted to the Federal Trade Commission by said Act for the carrying out of the purposes of this section.

Having completed its inquiry respecting any commodity in any locality it shall, if the President has decided to fix the prices at which any such commodity shall be sold by producers and dealers generally, fix and publish maximum prices for both producers of and dealers in any such commodity, which maximum prices shall be observed by all producers and dealers until further action thereon is taken by the commission.

In fixing maximum prices for producers the commission shall allow the cost of production, including the expense of operation, maintenance, depreciation,

and depletion, and shall add thereto a just and reasonable profit.

In fixing such prices for dealers, the commission shall allow the cost to the dealer and shall add thereto a just and reasonable sum for his services in the transaction. There shall be but one such dealer between the producer and consumer or user.

The maximum prices so fixed and published shall not be construed as invalidating any contract in which prices are fixed, made in good faith, prior to the establishment and publication of maximum prices by the commission.

Whoever shall, with knowledge that the prices of any such commodity have been so fixed by the commission, ask, demand, or receive a higher price in violation of this section, shall, upon conviction, be punished by a fine of not more than $5,000 or by imprisonment for not more than three years or both. Each independent transaction shall constitute a separate offense.

Nothing in this section shall be construed as restricting or modifying in any manner the right the Government of the United States may have in its own behalf or in behalf of any other Government at war with Germany to purchase, requisition, or take over any such commodities for the equipment, maintenance, or support of armed forces at any price or upon any terms that may be agreed upon or otherwise lawfully determined.

(70) SEC. *23. A joint committee of the Senate and House of Representatives shall be appointed, composed of five members of the Senate, including three Democrats and two Republicans, and five members of the House of Representatives, including three Democrats and two Republicans, to be known as "The Joint Committee on Expenditures in the Conduct of the War."*

It shall be the duty of said committee to keep itself advised with regard to the expenditure of all appropri-

ations bearing on the conduct of the war made by Congress and the contracts relating thereto made by officers of the executive department, and it shall be the duty of the executive departments, on request, to keep said committee fully advised as to such expenditures and contracts.

Such committee shall confer and advise with the President of the United States and the heads of the various executive departments, commissions, voluntary boards or other organizations connected with the conduct of the war, with a view to safeguarding expenditures, and shall report to Congress from time to time in its own discretion, or when requested to do so by either branch of Congress.

The membership of such committee shall be designated by the respective committees of the Senate and House which select the members of the regular standing committees.

Such committee shall have power to act by subcommittee or otherwise, and to send for persons and papers, and administer oaths, to summon and compel the attendance of witnesses and to employ such clerical, expert and stenographic assistance as shall be necessary; and to pay the necessary expenses of such committee there is hereby appropriated out of any money in the Treasury not otherwise appropriated, the sum of $50,000, to be paid out upon the audit and order of the chairman or acting chairman of said committee.

(71) SEC. *24. That any person carrying on or employed in commerce among the several States, or with foreign nations, or with or in the Territories or other possessions of the United States in any article suitable for human food, fuel, or other necessaries of life, who, either in his individual capacity or as an officer, agent, or employee of a corporation or member of a partnership carrying on or employed in such trade, shall store, acquire, or hold, or who shall destroy or make away with any such article for the purpose of limiting the*

supply thereof to the public or affecting the market price thereof in such commerce, whether temporarily or otherwise, shall be deemed guilty of a felony and, upon conviction thereof, shall be punished by imprisonment in the penitentiary for not less than six months nor more than three years: Provided, That any storing or holding by any farmer, gardener, or other person of the products of any farm, garden, or other land cultivated by him shall not be deemed to be a storing or holding within the meaning of this Act: Provided further, That farmers and fruit growers, cooperative and other exchanges, or societies of a similar character shall not be included within the provisions of this section: And provided further, That the foregoing shall not be construed to prohibit the acquiring, storing, or holding of such articles for future sale for such advanced price as might prevail in the ordinary course of business and in a free and unrestricted market. Nothing contained in this section shall be construed to repeal the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July second, eighteen hundred and ninety, commonly known as the Sherman Antitrust Act.

(72) SEC. *25. That the President is authorized and directed to procure, or aid in procuring, such stocks of nitrate of soda as he may determine to be necessary, and find available, for increasing agricultural production during the calendar years nineteen hundred and seventeen and eighteen, and to dispose of the same at cost payable in advance. For carrying out the purposes of this resolution, there is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, available immediately and until expended, the sum of $10,000,000, or so much thereof as may be necessary, and the President is authorized to make such regulations, and to use such means and agencies of the Government, as, in his discretion, he may deem best. The proceeds arising from the disposition of*

the nitrate of soda shall go into the Treasury as miscellaneous receipts.

(73) SEC. *26. That nothing in this Act shall be construed to repeal, modify, or affect either section six or section twenty of an Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October fifteenth, nineteen hundred and fourteen.*

Passed the House of Representatives June 23, 1917.

Attest:

SOUTH TRIMBLE,
Clerk.

Passed the Senate with amendments July 18 (calendar day, July 21), 1917.

Attest:

JAMES M. BAKER,
Secretary.

APPENDIX B.

TEXT OF THE LEVER ACT AS FINALLY PASSED.

40 Statutes at Large 276.

AN ACT

To provide further for the national security and defense by encouraging the production, conserving the supply, and controlling the distribution of food products and fuel.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That by reason of the existence of a state of war, it is essential to the national security and defense, for the successful prosecution of the war, and for the support and maintenance of the Army and Navy, to assure an adequate supply and equitable distribution, and to facilitate the movement, of foods, feeds, fuel including fuel oil and natural

gas, and fertilizer and fertilizer ingredients, tools, utensils, implements, machinery, and equipment required for the actual production of foods, feeds, and fuel, hereafter in this Act called necessaries; to prevent, locally or generally, scarcity, monopolization, hoarding, injurious speculation, and private controls, affecting such supply, distribution, and movement; and to establish and maintain governmental control of such necessaries during the war. For such purposes the instrumentalities, means, methods, powers, authorities, duties, obligations, and prohibitions hereinafter set forth are created, established, conferred, and prescribed. The President is authorized to make such regulations and to issue such orders as are essential effectively to carry out the provisions of this Act.

SEC. 2. That in carrying out the purposes of this Act the President is authorized to enter into any voluntary arrangements or agreements, to create and use any agency or agencies, to accept the services of any person without compensation, to cooperate with any agency or person, to utilize any department or agency of the Government, and to coordinate their activities so as to avoid any preventable loss or duplication of effort or funds.

SEC. 3. That no person acting either as a voluntary or paid agent or employee of the United States in any capacity, including an advisory capacity, shall solicit, induce, or attempt to induce any person or officer authorized to execute or to direct the execution of contracts on behalf of the United States to make any contract or give any order for the furnishing to the United States of work, labor, or services, or of materials, supplies, or other property of any kind or character, if such agent or employee has any pecuniary interest in such contract or order, or if he or any firm of which he is a member, or corporation, joint-stock company, or association of which he is an officer or stockholder, or in the pecuniary profits of which he is directly or indirectly interested, shall be a party thereto. Nor shall any agent or employee make, or permit any committee or other body of which he is a member to make, or participate in making, any recommendation

concerning such contract or order to any council, board, or commission of the United States, or any member or subordinate thereof, without making to the best of his knowledge and belief a full and complete disclosure in writing to such council, board, commission, or subordinate of any and every pecuniary interest which he may have in such contract or order and of his interest in any firm, corporation, company, or association being a party thereto. Nor shall he participate in the awarding of such contract or giving such order. Any willful violation of any of the provisions of this section shall be punishable by a fine of not more than $10,000, or by imprisonment of not more than five years, or both: *Provided*, That the provisions of this section shall not change, alter or repeal section forty-one of chapter three hundred and twenty-one, Thirty-fifth Statutes at Large.

SEC. 4. That it is hereby made unlawful for any person willfully to destroy any necessaries for the purpose of enhancing the price or restricting the supply thereof; knowingly to commit waste or willfully to permit preventable deterioration of any necessaries in or in connection with their production, manufacture, or distribution; to hoard, as defined in section six of this Act, any necessaries; to monopolize or attempt to monopolize, either locally or generally, any necessaries; to engage in any discriminatory and unfair, or any deceptive or wasteful practice or device, or to make any unjust or unreasonable rate or charge, in handling or dealing in or with any necessaries; to conspire, combine, agree, or arrange with any other person, (a) to limit the facilities for transporting, producing, harvesting, manufacturing, supplying, storing, or dealing in any necessaries; (b) to restrict the supply of any necessaries; (c) to restrict distribution of any necessaries; (d) to prevent, limit, or lessen the manufacture or production of any necessaries in order to enhance the price thereof, or (e) to exact excessive prices for any necessaries; or to aid or abet the doing of any act made unlawful by this section.

SEC. 5. That, from time to time, whenever the President shall find it essential to license the importation, man-

ufacture, storage, mining, or distribution of any necessaries, in order to carry into effect any of the purposes of this Act, and shall publicly so announce, no person shall, after a date fixed in the announcement, engage in or carry on any such business specified in the announcement of importation, manufacture, storage, mining, or distribution of any necessaries as set forth in such announcement, unless he shall secure and hold a license issued pursuant to this section. The President is authorized to issue such licenses and to prescribe regulations for the issuance of licenses and requirements for systems of accounts and auditing of accounts to be kept by licensees, submission of reports by them, with or without oath or affirmation, and the entry and inspection by the President's duly authorized agents of the places of business of licensees. Whenever the President shall find that any storage charge, commission, profit, or practice of any licensee is unjust, or unreasonable, or discriminatory and unfair, or wasteful, and shall order such licensee, within a reasonable time fixed in the order, to discontinue the same, unless such order, which shall recite the facts found, is revoked or suspended, such licensee shall, within the time prescribed in the order, discontinue such unjust, unreasonable, discriminatory and unfair storage charge, commission, profit, or practice. The President may, in lieu of any such unjust, unreasonable, discriminatory, and unfair storage charge, commission, profit, or practice, find what is a just, reasonable, nondiscriminatory and fair storage charge, commission, profit, or practice, and in any proceeding brought in any court such order of the President shall be prima facie evidence. Any person who, without a license issued pursuant to this section, or whose license shall have been revoked, knowingly engages in or carries on any business for which a license is required under this section, or willfully fails or refuses to discontinue any unjust, unreasonable, discriminatory and unfair storage charge, commission, profit, or practice, in accordance with the requirement of an order issued under this section, or any regulation prescribed under this section, shall, upon conviction thereof, be punished by a fine not exceeding

$5,000, or by imprisonment for not more than two years, or both: *Provided,* That this section shall not apply to any farmer, gardener, cooperative association of farmers or gardeners, including live-stock farmers, or other persons with respect to the products of any farm, garden, or other land owned, leased, or cultivated by him, nor to any retailer with respect to the retail business actually conducted by him, nor to any common carrier, nor shall anything in this section be construed to authorize the fixing or imposition of a duty or tax upon any article imported into or exported from the United States or any State, Territory, or the District of Columbia: *Provided further,* That for the purposes of this Act a retailer shall be deemed to be a person, copartnership, firm, corporation, or association not engaging in the wholesale business whose gross sales do not exceed $100,000 per annum.

SEC. 6. That any person who willfully hoards any necessaries shall upon conviction thereof be fined not exceeding $5,000 or be imprisoned for not more than two years, or both. Necessaries shall be deemed to be hoarded within the meaning of this Act when either (a) held, contracted for, or arranged for by any person in a quantity in excess of his reasonable requirements for use or consumption by himself and dependents for a reasonable time; (b) held, contracted for, or arranged for by any manufacturer, wholesaler, retailer, or other dealer in a quantity in excess of the reasonable requirements of his business for use or sale by him for a reasonable time, or reasonably required to furnish necessaries produced in surplus quantities seasonally throughout the period of scant or no production; or (c) withheld, whether by possession or under any contract or arrangement, from the market by any person for the purpose of unreasonably increasing or diminishing the price: *Provided,* That this section shall not include or relate to transactions on any exchange, board of trade, or similar institution or place of business as described in section thirteen of this Act that may be permitted by the President under the authority conferred upon him by said section thirteen: *Provided, however,* That any accumulating or withholding

by any farmer or gardener, cooperative association of farmers or gardeners, including live-stock farmers, or any other person, of the products of any farm, garden, or other land owned, leased, or cultivated by him shall not be deemed to be hoarding within the meaning of this Act.

SEC. 7. That whenever any necessaries shall be hoarded as defined in section six they shall be liable to be proceeded against in any district court of the United States within the district where the same are found and seized by a process of libel for condemnation, and if such necessaries shall be adjudged to be hoarded they shall be disposed of by sale in such manner as to provide the most equitable distribution thereof as the court may direct, and the proceeds thereof, less the legal costs and charges, shall be paid to the party entitled thereto. The proceedings of such libel cases shall conform as near as may be to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any such case, and all such proceedings shall be at the suit of and in the name of the United States. It shall be the duty of the United States attorney for the proper district to institute and prosecute any such action upon presentation to him of satisfactory evidence to sustain the same.

SEC. 8. That any person who willfully destroys any necessaries for the purpose of enhancing the price or restricting the supply thereof shall, upon conviction thereof, be fined not exceeding $5,000 or imprisoned for not more than two years, or both.

SEC. 9. That any person who conspires, combines, agrees, or arranges with any other person (a) to limit the facilities for transporting, producing, manufacturing, supplying, storing, or dealing in any necessaries; (b) to restrict the supply of any necessaries; (c) to restrict the distribution of any necessaries; (d) to prevent, limit, or lessen the manufacture or production of any necessaries in order to enhance the price thereof shall, upon conviction thereof, be fined not exceeding $10,000 or be imprisoned for not more than two years, or both.

SEC. 10. That the President is authorized, from time to

time, to requisition foods, feeds, fuels, and other supplies necessary to the support of the Army or the maintenance of the Navy, or any other public use connected with the common defense, and to requisition, or otherwise provide, storage facilities for such supplies; and he shall ascertain and pay a just compensation therefor. If the compensation so determined be not satisfactory to the person entitled to receive the same, such person shall be paid seventy-five per centum of the amount so determined by the President, and shall be entitled to sue the United States to recover such further sum as, added to said seventy-five per centum will make up such amount as will be just compensation for such necessaries or storage space, and jurisdiction is hereby conferred on the United States District Courts to hear and determine all such controversies: *Provided*, That nothing in this section, or in the section that follows, shall be construed to require any natural person to furnish to the Government any necessaries held by him and reasonably required for consumption or use by himself and dependents, nor shall any person, firm, corporation, or association be required to furnish to the Government any seed necessary for the seeding of land owned, leased, or cultivated by them.

SEC. 11. That the President is authorized from time to time to purchase, to store, to provide storage facilities for, and to sell for cash at reasonable prices, wheat, flour, meal, beans, and potatoes: *Provided*, That if any minimum price shall have been theretofore fixed, pursuant to the provisions of section fourteen of this Act, then the price paid for any such articles so purchased shall not be less than such minimum price. Any moneys received by the United States from or in connection with the disposal by the United States of necessaries under this section may, in the discretion of the President, be used as a revolving fund for further carrying out the purposes of this section. Any balance of such moneys not used as part of such revolving fund shall be covered into the Treasury as miscellaneous receipts.

SEC. 12. That whenever the President shall find it necessary to secure an adequate supply of necessaries for the sup-

port of the Army or the maintenance of the Navy, or for any other public use connected with the common defense, he is authorized to requisition and take over, for use or operation by the Government, any factory, packing house, oil pipe line, mine, or other plant, or any part thereof, in or through which any necessaries are or may be manufactured, produced, prepared, or mined, and to operate the same. Whenever the President shall determine that the further use or operation by the Government of any such factory, mine, or plant, or part thereof, is not essential for the national security or defense, the same shall be restored to the person entitled to the possession thereof. The United States shall make just compensation, to be determined by the President, for the taking over, use, occupation, and operation by the Government of any such factory, mine, or plant, or part thereof. If the compensation so determined be unsatisfactory to the person entitled to receive the same, such person shall be paid seventy-five per centum of the amount so determined by the President, and shall be entitled to sue the United States to recover such further sum as, added to said seventy-five per centum, will make up such amount as will be just compensation, in the manner provided by section twenty-four, paragraph twenty, and section one hundred and forty-five of the Judicial Code. The President is authorized to prescribe such regulations as he may deem essential for carrying out the purposes of this section, including the operation of any such factory, mine, or plant, or part thereof, the purchase, sale, or other disposition of articles used, manufactured, produced, prepared, or mined therein, and the employment, control, and compensation of employees. Any moneys received by the United States from or in connection with the use or operation of any such factory, mine, or plant, or part thereof, may, in the discretion of the President, be used as a revolving fund for the purpose of the continued use or operation of any such factory, mine, or plant, or part thereof, and the accounts of each such factory, mine, plant, or part thereof, shall be kept separate and distinct. Any balance of such moneys not

used as part of such revolving fund shall be paid into the Treasury as miscellaneous receipts.

SEC. 13. That whenever the President finds it essential in order to prevent undue enhancement, depression, or fluctuation of prices of, or in order to prevent injurious speculation in, or in order to prevent unjust market manipulation or unfair and misleading market quotations of the prices of necessaries, hereafter in this section called evil practices, he is authorized to prescribe such regulations governing, or may either wholly or partly prohibit, operations, practices, and transactions at, on, in or under the rules of any exchange, board of trade, or similar institution or place of business as he may find essential in order to prevent, correct, or remove such evil practices. Such regulations may require all persons coming within their provisions to keep such records and statements of account, and may require such persons to make such returns, verified under oath or otherwise, as will fully and correctly disclose all transactions at, in or on, or under the rules of any such exchange, board of trade, or similar institution or place of business, including the making, execution, settlement, and fulfillment thereof. He may also require all persons acting in the capacity of a clearing house, clearing association, or similar institution, for the purpose of clearing, settling, or adjusting transactions at, in, or on, or under the rules of any such exchange, board of trade, or similar institution or place of business, to keep such records and to make such returns as will fully and correctly disclose all facts in their possession relating to such transactions, and he may appoint agents to conduct the investigations necessary to enforce the provisions of this section and all rules and regulations made by him in pursuance thereof, and may fix and pay the compensation of such agents. Any person who willfully violates any regulation made pursuant to this section, or who knowingly engages in any operation, practice, or transaction prohibited pursuant to this section, or who willfully aids or abets any such violation or any such prohibited operation, practice, or transaction, shall, upon conviction thereof, be

punished by a fine not exceeding $10,000 or by imprisonment for not more than four years, or both.

SEC. 14. That whenever the President shall find that an emergency exists requiring stimulation of the production of wheat and that it is essential that the producers of wheat, produced within the United States, shall have the benefits of the guaranty provided for in this section, he is authorized, from time to time, seasonably and as far in advance of seeding time as practicable, to determine and fix and to give public notice of what, under specified conditions, is a reasonable guaranteed price for wheat, in order to assure such producers a reasonable profit. The President shall thereupon fix such guaranteed price for each of the official grain standards for wheat as established under the United States grain standards Act, approved August eleventh, nineteen hundred and sixteen. The President shall from time to time establish and promulgate such regulations as he shall deem wise in connection with such guaranteed prices, and in particular governing conditions of delivery and payment, and differences in price for the several standard grades in the principal primary markets of the United States, adopting number one northern spring or its equivalent at the principal interior primary markets as the basis. Thereupon, the Government of the United States hereby guarantees every producer of wheat produced within the United States, that, upon compliance by him with the regulations prescribed, he shall receive for any wheat produced in reliance upon this guarantee within the period, not exceeding eighteen months, prescribed in the notice, a price not less than the guaranteed price therefor as fixed pursuant to this section. In such regulations the President shall prescribe the terms and conditions upon which any such producer shall be entitled to the benefits of such guaranty. The guaranteed prices for the several standard grades of wheat for the crop of nineteen hundred and eighteen, shall be based upon number one northern spring or its equivalent at not less than $2 per bushel at the principal interior primary markets. This guaranty shall not be dependent upon the action of the President under the first part of this section, but is hereby

made absolute and shall be binding until May first, nineteen hundred and nineteen. When the President finds that the importation into the United States of any wheat produced outside of the United States materially enhances or is likely materially to enhance the liabilities of the United States under guaranties of prices therefor made pursuant to this section, and ascertains what rate of duty, added to the then existing rate of duty on wheat and to the value of wheat at the time of importation, would be sufficient to bring the price thereof at which imported up to the price fixed therefor pursuant to the foregoing provisions of this section, he shall proclaim such facts, and thereafter there shall be levied, collected, and paid upon wheat when imported in addition to the then existing rate of duty, the rate of duty so ascertained; but in no case shall any such rate of duty be fixed at an amount which will effect a reduction of the rate of duty upon wheat under any then existing tariff law of the United States. For the purpose of making any guaranteed price effective under this section, or whenever he deems it essential in order to protect the Government of the United States against material enhancement of its liabilities arising out of any guaranty under this section, the President is authorized also, in his discretion, to purchase any wheat for which a guaranteed price shall be fixed under this section, and to hold, transport, or store it, or to sell, dispose of, and deliver the same to any citizen of the United States or to any Government engaged in war with any country with which the Government of the United States is or may be at war or to use the same as supplies for any department or agency of the Government of the United States. Any moneys received by the United States from or in connection with the sale or disposal of wheat under this section may, in the discretion of the President, be used as a revolving fund for further carrying out the purposes of this section. Any balance of such moneys not used as part of such revolving fund shall be covered into the Treasury as miscellaneous receipts.

SEC. 15. That from and after thirty days from the date of the approval of this Act no foods, fruits, food materials,

or feeds shall be used in the production of distilled spirits for beverage purposes: *Provided,* That under such rules, regulations, and bonds as the President may prescribe, such materials may be used in the production of distilled spirits exclusively for other than beverage purposes, or for the fortification of pure sweet wines as defined by the Act entitled "An Act to increase the revenue, and for other purposes," approved September eighth, nineteen hundred and sixteen. Nor shall there be imported into the United States any distilled spirits. Whenever the President shall find that limitation, regulation, or prohibition of the use of foods, fruits, food materials, or feeds in the production of malt or vinous liquors for beverage purposes, or that reduction of the alcoholic content of any such malt or vinous liquor, is essential, in order to assure an adequate and continuous supply of food, or that the national security and defense will be subserved thereby, he is authorized, from time to time, to prescribe and give public notice of the extent of the limitation, regulation, prohibition, or reduction so necessitated. Whenever such notice shall have been given and shall remain unrevoked no person shall, after a reasonable time prescribed in such notice, use any foods, fruits, food materials, or feeds in the production of malt or vinous liquors, or import any such liquors except under license issued by the President and in compliance with rules and regulations determined by him governing the production and importation of such liquors and the alcoholic content thereof. Any person who willfully violates the provisions of this section, or who shall use any foods, fruits, food materials, or feeds in the production of malt or vinous liquors, or who shall import any such liquors, without first obtaining a license so to do when a license is required under this section, or who shall violate any rule or regulation made under this section, shall be punished by a fine not exceeding $5,000, or by imprisonment for not more than two years, or both: *Provided further,* That nothing in this section shall be construed to authorize the licensing of the manufacture of vinous or malt liquors in any State, Territory, or the District of Columbia, or any civil subdivision thereof, where the manufacture of such vinous or malt liquor is prohibited.

SEC. 16. That the President is authorized and directed to commandeer any or all distilled spirits in bond or in stock at the date of the approval of this Act for redistillation, in so far as such redistillation may be necessary to meet the requirements of the Government in the manufacture of munitions and other military and hospital supplies, or in so far as such redistillation would dispense with the necessity of utilizing products and materials suitable for foods and feeds in the future manufacture of distilled spirits for the purposes herein enumerated. The President shall determine and pay a just compensation for the distilled spirits so commandeered; and if the compensation so determined be not satisfactory to the person entitled to receive the same, such person shall be paid seventy-five per centum of the amount so determined by the President and shall be entitled to sue the United States to recover such further sum as, added to said seventy-five per centum, will make up such amount as will be just compensation for such spirits, in the manner provided by section twenty-four, paragraph twenty, and section one hundred and forty-five of the Judicial Code.

SEC. 17. That every person who willfully assaults, resists, impedes, or interferes with any officer, employee, or agent of the United States in the execution of any duty authorized to be performed by or pursuant to this Act shall upon conviction thereof be fined not exceeding $1,000 or be imprisoned for not more than one year, or both.

SEC. 18. That the sum of $2,500,000 is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to be available until June thirtieth, nineteen hundred and eighteen, for the payment of such rent, the expense, including postage, of such printing and publications, the purchase of such material and equipment, and the employment of such persons and means, in the city of Washington and elsewhere, as the President may deem essential.

SEC. 19. That for the purposes of this Act the sum of $150,000,000 is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to be available during the time this Act is in effect: *Provided,* That no

part of this appropriation ..... be expended for the purposes described in the preceding section: *Provided further,* That itemized statements covering all purchases and disbursements under this and the preceding section shall be filed with the Secretary of the Senate and the Clerk of the House of Representatives on or before the twenty-fifth day of each month after the taking effect of this Act, covering the business of the preceding month, and said statements shall be subject to public inspection.

SEC. 20. That the employment of any person under the provisions of this Act shall not exempt any such person from military service under the provisions of the selective draft law approved May eighteenth, nineteen hundred and seventeen.

SEC. 21. The President shall cause a detailed report to be made to the Congress on the first day of January each year of all proceedings had under this Act during the year preceding. Such report shall, in addition to other matters, contain an account of all persons appointed or employed, the salary or compensation paid or allowed each, the aggregate amount of the different kinds of property purchased or requisitioned, the use and disposition made of such property, and a statement of all receipts, payments, and expenditures, together with a statement showing the general character, and estimated value of all property then on hand, and the aggregate amount and character of all claims against the United States growing out of this Act.

SEC. 22. That if any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof, directly involved in the controversy in which such judgment shall have been rendered.

SEC. 23. That words used in this Act shall be construed to import the plural or the singular, as the case demands. The word "person," wherever used in this Act, shall include individuals, partnerships, associations, and corpora-

tions. When construing and enforcing the provisions of this Act, the act, omission, or failure of any official, agent, or other person acting for or employed by any partnership, association, or corporation within the scope of his employment or office shall, in every case, also be deemed the act, omission, or failure of such partnership, association, or corporation as well as that of the person.

SEC. 24. That the provisions of this Act shall cease to be in effect when the existing state of war between the United States and Germany shall have terminated, and the fact and date of such termination shall be ascertained and proclaimed by the President; but the termination of this Act shall not affect any act done, or any right or obligation accruing or accrued, or any suit or proceeding had or commenced in any civil case before the said termination pursuant to this Act; but all rights and liabilities under this Act arising before its termination shall continue and may be enforced in the same manner as if the Act had not terminated. Any offense committed and all penalties, forfeitures, or liabilities incurred prior to such termination may be prosecuted or punished in the same manner and with the same effect as if this Act had not been terminated.

SEC. 25. That the President of the United States shall be, and he is hereby, authorized and empowered, whenever and wherever in his judgment necessary for the efficient prosecution of the war, to fix the price of coal and coke, wherever and whenever sold, either by producer or dealer, to establish rules for the regulation of and to regulate the method of production, sale, shipment, distribution, apportionment, or storage thereof among dealers and consumers, domestic or foreign; said authority and power may be exercised by him in each case through the agency of the Federal Trade Commission during the war or for such part of said time as in his judgment may be necessary.

That if, in the opinion of the President, any such producer or dealer fails or neglects to conform to such prices or regulations, or to conduct his business efficiently under

the regulations and control of the President as aforesaid, or conducts it in a manner prejudicial to the public interest, then the President is hereby authorized and empowered in every such case to requisition and take over the plant, business, and all appurtenances thereof belonging to such producer or dealer as a going concern, and to operate or cause the same to be operated in such manner and through such agency as he may direct during the period of the war or for such part of said time as in his judgment may be necessary.

That any producer or dealer whose plant, business, and appurtenances shall have been requisitioned or taken over by the President shall be paid a just compensation for the use thereof during the period that the same may be requisitioned or taken over as aforesaid, which compensation the President shall fix or cause to be fixed by the Federal Trade Commission.

That if the prices so fixed, or if, in the case of the taking over or requisitioning of the mines or business of any such producer or dealer the compensation therefor as determined by the provisions of this Act be not satisfactory to the person or persons entitled to receive the same, such person shall be paid seventy-five per centum of the amount so determined, and shall be entitled to sue the United States to recover such further sum as, added to said seventy-five per centum, will make up such amount as will be just compensation in the manner provided by section twenty-four, paragraph twenty, and section one hundred and forty-five of the Judicial Code.

While operating or causing to be operated any such plants or business, the President is authorized to prescribe such regulations as he may deem essential for the employment, control, and compensation of the employees necessary to conduct the same.

Or if the President of the United States shall be of the opinion that he can thereby better provide for the common defense, and whenever, in his judgment, it shall be necessary for the efficient prosecution of the war, then he is

hereby authorized and empowered to require any or all producers of coal and coke, either in any special area or in any special coal fields, or in the entire United States, to sell their products only to the United States through an agency to be designated by the President, such agency to regulate the resale of such coal and coke, and the prices thereof, and to establish rules for the regulation of and to regulate the methods of production, shipment, distribution, apportionment, or storage thereof among dealers and consumers, domestic or foreign, and to make payment of the purchase price thereof to the producers thereof, or to the person or persons legally entitled to said payment.

That within fifteen days after notice from the agency so designated to any producer of coal and coke that his, or its, output is to be so purchased by the United States as hereinbefore described, such producer shall cease shipments of said product upon his own account and shall transmit to such agency all orders received and unfilled or partially unfilled, showing the exact extent to which shipments have been made thereon, and thereafter all shipments shall be made only on authority of the agency designated by the President, and thereafter no such producer shall sell any of said products except to the United States through such agency, and the said agency alone is hereby authorized and empowered to purchase during the continuance of the requirement the output of such producers.

That the prices to be paid for such products so purchased shall be based upon a fair and just profit over and above the cost of production, including proper maintenance and depletion charges, the reasonableness of such profits and cost of production to be determined by the Federal Trade Commission, and if the prices fixed by the said commission of any such product purchased by the United States as hereinbefore described be unsatisfactory to the person or persons entitled to the same, such person or persons shall be paid seventy-five per centum of the amount so determined, and shall be entitled to sue the United States to recover such further sum as, added to said seventy-five per centum,

will make up such amount as will be just compensation in the manner provided by section twenty-four, paragraph twenty, and section one hundred and forty-five of the Judicial Code.

All such products so sold to the United States shall be sold by the United States at such uniform prices, quality considered, as may be practicable and as may be determined by said agency to be just and fair.

Any moneys received by the United States for the sale of any such coal and coke may, in the discretion of the President, be used as a revolving fund for further carrying out the purposes of this section. Any moneys not so used shall be covered into the Treasury as miscellaneous receipts.

That when directed by the President, the Federal Trade Commission is hereby required to proceed to make full inquiry, giving such notice as it may deem practicable, into the cost of producing under reasonably efficient management at the various places of production the following commodities, to wit, coal and coke.

The books, correspondence, records, and papers in any way referring to transactions of any kind relating to the mining, production, sale, or distribution of all mine operators or other persons whose coal and coke have or may become subject to this section, and the books, correspondence, records, and papers of any person applying for the purchase of coal and coke from the United States shall at all times be subject to inspection by the said agency, and such person or persons shall promptly furnish said agency any data or information relating to the business of such person or persons which said agency may call for, and said agency is hereby authorized to procure the information in reference to the business of such coal-mine operators and producers of coke and customers therefor in the manner provided for in sections six and nine of the Act of Congress approved September twenty-sixth, nineteen hundred and fourteen, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and

for other purposes," and said agency is hereby authorized and empowered to exercise all the powers granted to the Federal Trade Commission by said Act for the carrying out of the purposes of this section.

Having completed its inquiry respecting any commodity in any locality, it shall, if the President has decided to fix the prices at which any such commodity shall be sold by producers and dealers generally, fix and publish maximum prices for both producers of and dealers in any such commodity, which maximum prices shall be observed by all producers and dealers until further action thereon is taken by the commission.

In fixing maximum prices for producers the commission shall allow the cost of production, including the expense of operation, maintenance, depreciation, and depletion, and shall add thereto a just and reasonable profit.

In fixing such prices for dealers, the commission shall allow the cost to the dealer and shall add thereto a just and reasonable sum for his profit in the transaction. .

The maximum prices so fixed and published shall not be construed as invalidating any contract in which prices are fixed, made in good faith, prior to the establishment and publication of maximum prices by the commission.

Whoever shall, with knowledge that the prices of any such commodity have been fixed as herein provided, ask, demand, or receive a higher price, or whoever shall, with knowledge that the regulations have been prescribed as herein provided, violate or refuse to conform to any of the same, shall, upon conviction, be punished by fine of not more than $5,000, or by imprisonment for not more than two years, or both. Each independent transaction shall constitute a separate offense.

Nothing in this section shall be construed as restricting or modifying in any manner the right the Government of the United States may have in its own behalf or in behalf of any other Government at war with Germany to purchase, requisition, or take over any such commodities for the equipment, maintenance, or support of armed forces at any

price or upon any terms that may be agreed upon or otherwise lawfully determined.

SEC. 26. That any person carrying on or employed in commerce among the several States, or with foreign nations, or with or in the Territories or other possessions of the United States in any article suitable for human food, fuel, or other necessaries of life, who, either in his individual capacity or as an officer, agent, or employee of a corporation or member of a partnership carrying on or employed in such trade, shall store, acquire, or hold, or who shall destroy or make away with any such article for the purpose of limiting the supply thereof to the public or affecting the market price thereof in such commerce, whether temporarily or otherwise, shall be deemed guilty of a felony and, upon conviction thereof, shall be punished by a fine of not more than $5,000 or by imprisonment for not more than two years, or both: *Provided,* That any storing or holding by any farmer, gardner, or other person of the products of any farm, garden, or other land cultivated by him shall not be deemed to be a storing or holding within the meaning of this Act: *Provided further,* That farmers and fruit growers, cooperative and other exchanges, or societies of a similar character shall not be included within the provisions of this section: *Provided further,* That this section shall not be construed to prohibit the holding or accumulating of any such article by any such person in a quantity not in excess of the reasonable requirements of his business for a reasonable time or in a quantity reasonably required to furnish said articles produced in surplus quantities seasonally throughout the period of scant or no production. Nothing contained in this section shall be construed to repeal the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July second, eighteen hundred and ninety, commonly known as the Sherman Antitrust Act.

SEC. 27. That the President is authorized to procure, or aid in procuring, such stocks of nitrate of soda as he may determine to be necessary, and find available, for increas-

ing agricultural production during the calendar years nineteen hundred and seventeen and eighteen, and to dispose of the same for cash at cost, including all expenses connected therewith. For carrying out the purposes of this section, there is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, available immediately and until expended, the sum of $10,000,000, or so much thereof as may be necessary, and the President is authorized to make such regulations, and to use such means and agencies of the Government, as, in his discretion, he may deem best. The proceeds arising from the disposition of the nitrate of soda shall go into the Treasury as miscellaneous receipts.

Approved, August 10, 1917.